Fourteenth Loksabha

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Participants : Bhardwaj Shri H.R.,Radhakrishnan Shri Varkala,Badnore Shri Vijayendra Pal Singh,Dasmunsi Shri Priya Ranjan,Deo Shri V. Kishore Chandra S.,Dhindsa Shri Sukhdev Singh,Tripathy Shri Braja Kishore,Reddy Shri Suravaram Sudhakar,Rao Shri K. Chandra Shekhar,Bhardwaj Shri H.R.,Singh Shri Mohan,Geete Shri Anant Gangaram,Gandhi Smt. Maneka,Acharia Shri Basudeb,Singh Shri Sitaram,Pathak Shri Brajesh,Yerrannaidu Shri Kinjarapu,Singh Shri Prabhunath,Swain Shri M.A. Kharabela,Deo Shri Bikram Keshari,Bhardwaj Shri H.R.

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Title : Discussion on the motion for consideration of Parliament (Prevention of Disqualification) Amendment Bill, 2006 (Bill Passed).

MR. DEPUTY-SPEAKER: The House shall now take up Item No. 16A – Shri Hans Raj Bhardwaj.

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): Sir, I beg to move:

> "That the Bill further to amend the Parliament (Prevention of Disqualification) Act, 1959, be taken into consideration."

Sir, article 102(1) of the Constitution provides that a person shall be disqualified for being chosen as and from being a Member of either House of Parliament, if he holds an office of profit under the Government of India or Government of a State other than the office declared by Parliament by law not to disqualify its holders.

The expression 'office of profit' has not been defined in the Constitution or in any other Act not because it is impossible to define it but because it is not easy to frame an all-inclusive definition covering all kinds of posts which exist under the Government and which might hereafter be created. The Parliament (Prevention of Disqualification) Act, 1959 and several other Acts of Parliament such as the Coffee Act, 1942, The Rubber Act, 1947 and the Rehabilitation Council of India Act, 1999 creating authorities or bodies in which Members of Parliament are represented, contain specific provisions to the effect that such office will not disqualify the holder on the ground that he is holding an office of profit.

The main provision in the Parliament (Prevention of Disqualification) Act, 1959 is contained in clauses (a) to (h) of section 3 which lists broadly 14 different categories of offices, the holding of which could not disqualify the holders thereof, or being chosen as and for being a Member of Parliament. Under clause (h) of section 3, holders of office of Chairman or Member of a Committee set up temporarily for the purpose of advising the Government or any other authority in respect of matter of public importance will not incur disqualification if such Chairman or Member is not entitled to any remuneration other than compensatory allowance.

At present, question regarding disqualification is to be decided in the case of pre-election dispute by the courts through election petition, and post-election disputes by the Election Commission of India under article 103 and article 192, and renders opinion to the President of India. Further, the Joint Committee on Office of Profit also examines the character and composition of various Committees, Boards, Commissions and other bodies, membership of which may disqualify a person from being chosen as and for being a Member of Parliament and to recommend what office should disqualify and what office should not disqualify.

Sir, as you are aware, recently the issue had to be re-visited on account of disqualification of Members of Parliament on the basis of holding an office of profit. It was brought to our notice that over 40 Members, from both the Houses, are being affected by such cases of disqualification. You will appreciate that the law is being enacted to prevent those 40 Members of Parliament from being disqualified.

With a view to include certain offices in Parliament (Prevention of Disqualification) Act, 1959, it is proposed to enact this legislation, so as to exempt the holders of such offices from incurring disqualification. We have been able to get the information from all the Members of Parliament who have given the names of the institutions which they want to be exempted; and we want to make it as comprehensive as possible. So, this measure covers all those cases of Members, who are urgently to be prevented from being disqualified. This Bill includes those offices which firstly are in any statutory or non-statutory bodies specified in the table and secondly, the office of Chairperson or Trustee of any Trust, by whatever name called, whether public or private. They are exempted. The offices of Chairman, President, Vice-President or Principal-Secretary or Secretary of the Governing Body of any society registered under the Societies Registration Act, 1860 have also been included. This will enable office-bearers to contribute for the promotion of literature, science or arts and make use of their useful knowledge for charitable purposes in such institutions, which all are aimed at securing and achieving public welfare and public good.

A Trust, as you know, is defined as an arrangement whereby the legal ownership of property is vested in the trustees for the benefit of a defined group of persons or for a defined object. In Trust, legal ownership belongs to the trustees and equitable ownership belongs to beneficiaries. Charity is a human instinct that drives man to think favourably of others and therefore do good to them. In our country, the benevolent role played by charitable Trusts has historical background and their existence has originated from the basic cultural trait peculiar to us. A trust is an obligation annexed to the ownership of property. The various forms of legal obligation apart from the Trust, *inter alia* are a society registered under the Societies Registration Act, 1860. A society registered under this Act is a legal entity apart from its members. Under the Societies Registration Act, the Governing Body may include, *inter alia* the offices of Chairman, President and so on and so forth. So, the table created under the Act includes all the institutions, the holders of office of which will be exempted under the present dispensation.

I commend this Bill for the consideration of this House.

MR. DEPUTY-SPEAKER: Does this include exemption of the President of Shiromani Gurudwara Prabandhak Committee?

SHRI H.R. BHARDWAJ: I deeply appreciate and have regards to the importance of this institution. They are included because as I said, all trusts – public as well as private – are included. I am aware of the Shiromani Gurudwara Prabandhak Committee. They are the historic institutions and they are also covered.

MR. DEPUTY-SPEAKER: Motion moved:

> "That the Bill further to amend the Parliament (Prevention of Disqualification) Act, 1959, be taken into consideration. "

SHRI KHARABELA SWAIN (BALASORE): Sir, how much time has been allocated for its discussion?

MR. DEPUTY-SPEAKER: Two hours have been allocated for its discussion.

SHRI KHARABELA SWAIN : I am a Member of the Business Advisory Committee. This notice has been sent to me indicating that in today's BAC meeting it will be decided as to how much time should be allocated to this Parliament (Prevention of Disqualification) Amendment Bill. The meeting is to take place at 4 o'clock today. When the meeting has not taken place yet, how can the Chair say that two hours have been allocated?

MR. DEPUTY-SPEAKER: If there is any necessity, we will extend the time for its discussion.

… (*Interruptions*)

SHRI KHARABELA SWAIN : Sir, it should not be bulldozed in that way.… (*Interruptions*)

THE MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI B.K. HANDIQUE): It was decided in today's Leaders' Meeting at 1030 hours. It was unanimously decided in that meeting.… (*Interruptions*)

SHRI KHARABELA SWAIN : Who says that it was unanimously decided? Our Party Members were not present there.… (*Interruptions*)

MR. DEPUTY-SPEAKER: Your Leader was present in that meeting.

… (*Interruptions*)

SHRI KHARABELA SWAIN : This is very unfair. It is nothing but mere bulldozing.… (*Interruptions*)

उपाध्यक्ष महोदयः सुबह की मीटिंग में आपकी पार्टी के लीडर मौजूद थे॥

SHRIMATI MANEKA GANDHI (PILIBHIT): Mr. Deputy-Speaker, Sir, I am grateful that I have been given this opportunity by my Party to speak on this particular Bill because it brings back particularly unhappy memories.

In 1995, Shri Rajesh Pilot of the Congress Party, who was then the Minister for Environment, appointed me as the Chairperson of the Animal Welfare Board of India. I stayed in that post for many years and was re-appointed in 2000. In 2002, the Annual Welfare Board had become a great nuisance for the pharmaceutical companies that ran bad laboratories. So, it was decided to remove me. But how to do that without incurring my wrath as a Member of the NDA, since the NDA Government was in power. So, Shri Baalu, who was then the Minister for Environment, all of a sudden notified the post of the Chairperson of the Animal Welfare Board as an office of profit – 42 years after it had been made. I was removed and a Joint Secretary was put in my place for whom obviously it was not an office of profit even though it carried the same supposed perks.

This cynical exercise has been repeated in the last Session with the removal of a Rajya Sabha Member who also held the post of the UP Film Development Council. Tasting success in getting rid of an opponent, immediately the ruling coalition filed similar intents for other MPs that they were inimical to. Unfortunately this move backfired when it was seen that more Members of the ruling coalition including the Chairperson held similar offices of profit. Whereas the expelled Rajya Sabha Member did not take a house, car or any money given to her by the UP Film Development Corporation which in itself was in pathetic state, the Chairperson of the NAC on the other hand had both house, office and other perks given directly from the Prime Minister's office.

In order to stop the growing criticism, in another extraordinary move, Parliament was adjourned *sine die*, cutting short a Session in which financial Bills had to be debated.

Then, when the ruling coalition discovered that it could actually find a way to ensure that these perks of their people continued including their Chairperson, Parliament was suddenly recalled at great expense for a short while for the single-minded purposes of passing a Bill that exempts 46 posts from the Prevention of Disqualification of Members of Parliament Act, 1959 popularly known as the Office of Profit Act. This may be of great importance to the politicians who are reluctant and obstinate to leave their posts. But is it of national importance?I can understand a special Session being called to discuss terrorism or the continuing desperation of farmers. But why a special Session for this small and insignificant reason. How extraordinarily cynical is this?

In this haste, every parliamentary norm has been abandoned. The then Speaker, Shri Shivraj Patil had once said that even if an amendment took place, the Bill should go back to the Standing Committee of the subject. This Bill has not gone to the Standing Committee at all. It has not been circulated two days before. The Parliamentary Affairs Minister said that it would only be passed with consensus. There is absolutely no consensus on the exemptions which have little meaning. The only consensus that we really do have is that every party has rushed to give the Parliamentary Affairs Minister a list of their own special people who are holding offices of profit. That is the limited consensus that we have. This Bill was supposed to eliminate the confusion over the office of profit. It has merely added to the confusion becoming a Bill to save the office and keep the profit. It is even sadder that a large proportion of the saved offices should be those of West Bengal. I suppose that is one of the parties of being the driving force in the ruling coalition. The Left has 19 out of 46 which is approximately 40 per cent which is their share of this bizarre list.

Should the line between the legislature and the executive be blurred for any reason? Should this *lakshman rekha* be erased in which ever place we like? This opens a Pandora's box. Today, you exempt 46. Tomorrow, we will exempt 100 and put these 46 behind the line again and so forth. Once it is decided that the legislative member whether of Parliament or the State Assemblies can take handouts to hold an office of profit, then anything is possible. Parliament which took such a strong stand in expelling MPs for misuse of their MPLADS and for taking money for questions has taken three steps back to again show the people of India that we will tolerate and condone anything when it comes to our own comforts. Article 102(1)(A) bars an MP or an MLA from holding an office of profit under the Government of India or in any other State other than the office declared by Parliament law as not disqualifying the holder. So, we disregard the gravity of this law and sneak in through the loopholes to give 46 Members of Parliament their own little fiefdoms again. And we use Parliament's time and the taxpayer's money in order to do it. Again how extraordinarily cynical.

The hon. Speaker has chosen to stay away from the discussion. Perhaps he should have chosen to walk the straight and narrow path as well – to give up the Sriniketan-Shantiniketan Development Authority. Caesar's wife must be above all scandal. The Minister of Parliamentary Affairs, Shri Dasmunsi has said in the press:

"It is not a question of saving any one's skin. It is a question of saving the dignity of Parliament."

Have we saved it with today's Bill? Have you read the editorials all over the country which have made fun of the exemptions and the nakedness of the greed attached to them? All you have done is simply made the 1959 law redundant by protecting the posts that individuals want them to be protected.

Let us go into the bizarreness of some these exemptions. The Uttar Pradesh Film Development Corporation cannot be exempt but the West Bengal Handicrafts Development can be exempt. No Adviser to the Chief Minister can be exempted except the Adviser to the Chief Minister of Uttar Pradesh. The Wakf Board of West Bengal can be exempted but the much larger Wakf Boards of Delhi, Punjab and Haryana cannot be exempted. The Uttar Pradesh and the West Bengal Development Boards are allowed but no other State is allowed. Let us look at the

people who head these. Strange and bizarre! You have exempted the Indian Institute of Psycometry. What is so important about this that we have to exempt it so that somebody can get a car and a red light?

Likewise, most of these are not of national importance. They are even of limited State importance. But who sit on them are relatives and people who are really important to the State Government, or the powers that be. So, what could be the reasons for exempting these posts? Does the Government wish to give an additional public image to those of their MPs who could not be accommodated in the Ministries but need a car and office? Could it be that these offices provide not just the holders the perks but with an opportunity to benefit not only himself or herself but their parties? Many of these exempted posts are held by special people, relatives of those in power or people who are exceptionally close to them.

Do you not think that the post of a Parliamentarian is in itself significant enough? Or, that the duties of a Parliamentarian are so onerous if taken seriously that there would be little time left to do justice to important independent organisations?

The voters send each one of us to Parliament to make good laws, monitor their implementation and to represent a section of India and make their lives better. Members are supposed to be present most of the time and take part in the issues that they feel competent to address. Any time given to yet another office would be stealing time unjustly from what you are elected to be. Surely, the Speaker's office, for instance, is already overcrowded with work.

Suppose we were appointed to be doctors and teachers, would the nation regard us with respect if we took time off from our professions to run other parallel enterprises that gave us extra money and have red lights on our cars? An office of profit is nothing but a second job done at the cost of the first one and often instead of the first one. When the Act was made by people wiser than us had a point and that was to force lawmakers, which we are, to concentrate on law making.

Should Members of Parliament be continually seen as those poor unhappy people who did not get the crumbs of office that a few did in the Executive? Should the Legislature be begging from the Executive and depending on their largesse? Should Members of Parliament be seen as those that hanker after subsidiary posts thrown to them by the Executive to give them false sense of importance and access to money?

This Bill is a cynical exercise to protect power and privilege. Any talk of continual sacrifice becomes negated by the unashamed protection given to a few people who are desperate to cling to some loaves of office, even if they have to fight elections again and again protesting their morality. Either exempt all or bar all. There cannot be any exceptions.

We oppose this Bill.

SHRI V. KISHORE CHANDRA S. DEO (PARVATIPURAM): Mr. Deputy-Speaker, thank you. I rise to support this Bill. The hon. Minister has already mentioned that a very piquant situation would have arisen if this Bill was not brought forward and there would have been a spate of elections litigations etc. This is just an amendment to give extension to certain posts which were already exempt in the Prevention of Disqualification Act, 1959.

Mr. Deputy-Speaker, Sir, I was amazed and shocked at the manner in which the hon. Leader of the Opposition opposed the very introduction of this Bill in a rather very unprecedented manner. I have always held him in some esteem having been here with him in Parliament for some time. But the only reason he did not oppose

this Bill on various grounds that was mentioned by the predecessor speaker. The Leader of the Opposition specifically mentioned more than once that he was opposing the introduction of the Bill only because the post of the Chairperson of the National Advisory Council was included in this amendment to be exempt from the office of profit.

Sir, I would like to assert, as the Law Minister has already said, that the Chairperson of the National Advisory Council was created by an Executive Order of the Committee. It is not a creation of the Constitution. It was by an Executive Order of the Cabinet that this post was created.

Sir, the whole world knows that we are running a coalition Government. This particular arrangement was actually created after it was agreed upon by Members of the ruling coalition to facilitate the functioning of the coalition Government. I can understand Mr. Advani's anxiety. Certainly I do not expect neither he nor any of the friends sitting on the other side to be happy if the coalition runs in a smooth and effective manner. That is worth appreciation. Naturally, the Opposition would like that arrangement to collapse as soon as possible. Fortunately or unfortunately, the NAC is a political advisory body. It is only a political body which is of an advisory nature. As Mr. Advani himself quoted in the morning, it was to monitor the National Common Minimum Programme and to provide inputs for policies. What is wrong in that?

Before I go further, I would like to mention that you must understand the very ethos of this particular legislation which was brought in 1959. Sir, we all know that in 1954, Bhargava Committee was set up and after it submitted its Report, the Prevention of Disqualification Act was brought as a sequel. Some statutory bodies and offices were included to be exempted from this provision. The main driving principle behind this legislation was actually to prevent conflict of interests. Conflict of interests where? Conflict of interests between one's personal interest, of what one would personally gain so that it does not come between you, and the issues that concern the public. So, this is to ensure that these do not have conflicting interests in the policies and programmes of the people that may come before the House. It was with this in mind that this particular legislation was introduced.

By monitoring the National Common Minimum Programme or by providing inputs to policy matters, are you conflicting with the interests of the nation or the people? On the contrary, it is to facilitate that.

Sir, we all know that the National Employment Guarantee Scheme which was applauded by all sections of the House, the Right to Information Bill and several other legislations were brought in this House. They were accepted by all sections of this House after the National Advisory Council had vetted these various legislations and recommended them to the ruling coalition. What is wrong in that? Where is the personal interest that conflicts against national interests when it comes to this? I am extremely sorry to say one point, when I heard the Leader of the Opposition. I felt that it was directed against one person. I did not expect this from a person for whom I have certain political respect. That is why, I was rather disappointed. I would have expected the Leader of the Opposition to oppose it on some principle, on some legal grounds or constitutionally or on some other procedure but not on a personal basis like this.

Sir, we have heard my predecessor, Shrimati Maneka Gandhi speaking. I can understand her anguish because, as she herself said, she was a victim of this earlier. But does that mean that we should push it all along to this extent. She was removed from a particular post and naturally, she has to vent those feelings and that anger is still burning within her. That is very well taken and I certainly appreciate whatever she said. But in this new situation and circumstance, there is a need for us to have a deeper look into this entire concept.

This Bill which has been introduced by the hon. Minister for Law only seeks to extend the list to see that a kind of unprecedented situation does not come before us. He had explained about that. So, I do not want to go into further details. I would like to mention that there is a necessity to debate this issue still further. There is no definition of an Office of Profit. As and when a certain matter came up, it went to the Committee. The Committee

made its recommendations and based on that, an amendment was brought in Parliament and then, that particular office was either included or deleted from this particular list.

Today, Mr. Deputy-Speaker, Sir, I think there is a need for us to delve deeper into this matter and go into it in detail. Let there be a national debate on this. I think at a later date the Parliament should discuss this issue threadbare and then come up with certain permanent solution to this particular aspect.

SHRI GURUDAS DASGUPTA (PANSKURA): The point that you are making implies that this Bill is *ad hoc.* … (*Interruptions*)

SHRI V. KISHORE CHANDRA S. DEO : Hon. Member Shri Gurudas Das Gupta is a very senior Member. I would like to clarify further my point. The amendment which is brought to this particular Act cannot be an *ad hoc* arrangement, it is a permanent arrangement. What I meant by saying so was that this entire aspect has to be debated further. I am prepared to explain as to why it should be debated further. I am not saying that this should come along with this Bill itself. The Law Minister is present here. I am requesting him and the entire House to consider this aspect in the light of the new developments which have taken place in the course of time. Forty-five years have passed.

In 1985 the Anti-Defection Law was passed in Parliament. It was passed and the Tenth Schedule was incorporated in the Constitution of India. Prior to 1985 a Member could vote in any manner he liked on the floor of this House. But post-1985, after the Tenth Schedule was incorporated in the Constitution, there is no question of a Member's vote having conflict with his personal interest. Even if a Member had a personal interest in a particular institution in which he was serving, he has to go by the party whip. What I am trying to say is that from 1985 onwards, in the last twenty years, if you violate the party whip, then you have to do it at the expense of losing your seat. What is the right that a Member has got? Apart from speaking in Parliament, he has the right to vote. It is a sacred right, an intrinsic right a Member or a legislator has is to cast his vote in the Parliament or in the Legislature. This vote was unrestricted. But what I am trying to say is that after 1985, after the Tenth Schedule was incorporated, that vote is not unrestricted any more. It is controlled by the party. So, today an MP or a few MPs cannot vote against the party whip without losing the membership of this House. This is a qualitative difference which has come in. Till a decade ago, I think around the year 1995, I do not know the exact date, the Supreme Court held that people's representatives are to be treated as public servants. This was in order to enable cases framed against MPs by using the Prevention of Corruption Act. I have no problems with that at all. If you want to frame people's representatives under the Prevention of Corruption Act, go ahead. If you want to treat them as public servants, it is fine. But then you cannot treat them as public servants for one purpose and then say: "Do not hold public office." I do not know if I have understood the entire thing wrongly. But I would like the Members to apply their minds to this aspect also. These are new developments which have taken place somewhere down the line and it is necessary for us to apply our minds to all these various aspects when we are talking of office of profit.

Though this says that anything you take other than Compensatory Allowance shall be an office of profit. It is not clearly defined. I have gone through certain parts of Bhargava Committee's Report. I myself was thoroughly confused at the end of it. It is not defined and it is not said what should be an office of profit and what should not be an office of profit. It says that it is not just a question of money or getting a red light or a car. It is whether it is in conflict in your functioning as a Member of this House against the interest of the nation or of the people.

Once you are convinced that that is going to happen, then the issue becomes different. I do not want to go debating on or replying to these petty things about the usage of a car or of a red light, and so on and so forth. In this

particular case, from the long list which is attached herewith, I am told that there have been Members who have been holding this post for the last 15 years or 20 years and nobody has objected. They are there on a particular Board as a Director or a Chairman for 10 years, 15 years or 20 years. Suddenly, someone sends a petition, then, you get a notice saying that you have to explain your position. Sir, very respectfully and humbly, I would like to submit that there are other constitutional bodies also which are going out of hand.

Sir, the Election Commission was given a list. I am not discussing the Election Commission. When they are given a list, Election Commission has no business to write to them asking for more information. You see, the petitioner should have given information and sent it to the Election Commission. You do not write back to them asking them for information and then to people who have been holding these offices for over two decades and then go on a binge and start asserting your right or authority to disqualify Members.

Sir, I have a different perception of this. This amendment is restricted only to controlling the present situation, which is there before us, to ensure that a spate of litigations, elections and unnecessary expenditure does not take place. Now, as far as the House is concerned, the House was anyway decided to be adjourned because of the elections, not because of this. The Demands were guillotined. The Finance Bill was passed. This was an earlier understanding to enable Leaders of political parties and all of us to go and compaign for the ensuing elections. In any case, I think, the Parliament was originally to have rescheduled and met on the 10th of May, 2006.… (*Interruptions*)

MR. DEPUTY-SPEAKER: Silence please. No running commentary.

SHRI V. KISHORE CHANDRA S. DEO : Sir, hon. Members can have their say. I have no quarrels with them. What I am trying to say is that one should not look at this particular issue with a myopic kind of a view. This is a larger issue and it needs to be debated. The situation has changed from then today.

When you are talking of conflicting interests, I would like to put a few questions before this House. By holding a Government office, either of the State Government or of the Central Government, you may or may not be in a position to discharge your duties in an effective and proper manner. But today, especially in the context of the new developments that have taken place in our country, today I can be the owner of an airline company. I can get elected to Parliament and I can also become a Minister of Civil Aviation. No conflicting interests will be there. I can be a major… (*Interruptions*) What I am trying to say is that even if it is not Government or State, my intention is this. Tomorrow, you may be a Director or a Chairman of a private company. You can become an MP.… (*Interruptions*) Okay. You have to step down to become a Minister but your interests are still over there.… (*Interruptions*) So, I think, these aspects need to be debated and discussed.… (*Interruptions*)

MR. DEPUTY-SPEAKER: No running commentary please.

SHRI V. KISHORE CHANDRA S. DEO : My opinion is that these situations are coming into play in our political system. I may be right or wrong but I am entitled to my views. If they have to resign, I do not know under which rule one has to resign from a Government job or of any connection with the Government. But if it is for any private company – private players are coming in today in large numbers in various sections of society – what about their conflicting interests when they come here to Parliament? Let there be a national debate on this. Let the House discuss it threadbare. I wish that some time later, the House and the Leaders of the political parties from various sides should discuss and come to some kind of a consensus on this issue as far as article 102 of the Constitution is concerned.

With these words, I support this Bill.

SHRI BASU DEB ACHARIA (BANKURA): Sir, I rise to support this Bill. This has necessitated because the situation has arisen today that some of the offices have been treated as the office of profit. This is not a new thing that for the first the time the Schedule is being amended and some new corporations or some organizations are being added. It is being continuously done since 1952. After adoption of our Constitution, it has been stated in Article 102 in Constitution that:

> "(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament –
> (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder; "

Sir, Constitution has very clearly stated that the Parliament has right to amend the law. The law was amended in 1952, then again in 1953 and subsequently in 1959 and since then, time and again, the Act has been amended. This provision has been incorporated in the Constitution of India. The main purpose is that the Member of Parliament or Member of Legislative Assembly will have an independent role and will not be subservient to the Executive. That is why that Member of Parliament is not permitted to hold the office of profit. But, the problem is that there is no clear definition of office of profit. Sir, the Supreme Court as well as the High Court, in different judgements, have stated which office could be treated as office of profit. There is a Joint Committee of Parliament on Office of Profit. What that Committee has stated in their recent report? That Parliamentary Committee has, in fact, on one occasion outlined the basic principle on this question:

> "The Committee feels that the basic principle underlying the imposition of disqualification under Article 102 (1) (a) and Article 191 (1) (a) of the Constitution is that a member of the Legislature should not be indebted to Government by accepting an 'office of profit' under the Government and thus compromise his independence."

By accepting an office of profit, it means he compromises his independence. In other words, an office of profit does not mean an office that yields monetary profit. Holding an office of profit is like holding an Executive post, which is likely to create a conflict of interest. That is the most important thing, conflict of interest with the conduct of Legislature.

> "In final analysis, the job of the Legislature is to keep a check on the Executive and not to be subservient to it."

The question is whether such organisations, corporations and other bodies will be treated as offices of profit or not.

Sir, in December, 2005, the Joint Parliamentary Committee on Office of Profit had submitted a Report to Parliament identifying three criteria to determine if holding a certain office should disqualify Members of Parliament under the law. These are:

(a) whether the holder draws any remuneration like sitting fee, honorarium, salary etc. other than the compensatory allowance;

(b) whether the body in which an office is held exercises executive, legislative or judicial power or confers power of disbursement of funds, allotment of lands, issue of licences or gives power of appointment, grant of scholarship;

(c) whether the body in which an office is held wields influence or power by way of patronage.

The Committee said that closer look at this criteria is needed and a comprehensive law defining the criteria which shall determine the categorisation of office of profit needs to be urgently taken up. This Committee have also recommended that there should be a clear definition of 'office of profit' and spell out the offices that can be treated as offices of profit.

Sir, in the proposed legislation, a list of 45 bodies has been included in the Schedule. Even during the NDA regime, such exemption was given when there was a need for that.

SHRI KHARABELA SWAIN : Is it 45 or 46?

SHRI BASU DEB ACHARIA : It may be 45 or 46, but that does not mean that the spirit of the Constitution is being flouted because the Constitution itself provides that Parliament can enact law and Parliament can give exemption to certain bodies from the purview of office of profit.

SHRI KHARABELA SWAIN : With retrospective effect!

SHRI BASU DEB ACHARIA : Maybe with retrospective effect. What is the problem?

Sir, the Leader of the Opposition has raised an objection. His objection is only with regard to Clause 2 of this amending legislation. This is not the question of any individual. The Government has created advisory bodies and advisory councils in the past also and the UPA Government has created the National Advisory Council. There is an Economic Advisory Council. In the same way, the National Advisory Council has been created. The Opposition's main purpose is to target one individual. The National Advisory Council is not a constitutional body also.

We have not targeted anyone.

SHRI KHARABELA SWAIN : We are targeting his party more… (*Interruptions*)

MR. DEPUTY-SPEAKER: No running commentary please. Nothing should be recorded except the speech of Shri Acharia. Any Member speaking without my permission will not be recorded.

*(Interruptions) ...**

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* Not Recorded.

SHRI BASU DEB ACHARIA : Sir, this is not a question of any individual. What is needed today is a clear definition of the Office of Profit. This legislation will not serve the purpose for which it has been brought because the problem will recur in future also.

Sir, the Members of Parliament are to discharge various responsibilities. They are accountable to the people of our country by discharging various responsibilities. We will have to see whether that accountability is being hampered or not. In order to have a clear definition in regard to Office of Profit, I suggest that a sub-committee be constituted, which will go into the question of definition of the Office of Profit because the Constitution of India has not defined which organisation or which body will be treated as Office of Profit.

The Constitution of India has stated that, 'only if he holds any Office of Profit under the Government of India or the Government of the State'. Today, those who are raising objection to this, I will request them to see what is happening in their States, particularly, in the State of Jharkhand.

Now we have passed a legislation and the number of Ministers has been restricted to 15 per cent. Those who have not been made Ministers have been made Chairmen of certain corporations and certain bodies in order to save the Government or even in order to form the Government also.

So, there is a need for a deeper look into this question. That is why we have suggested that the basic issues of the definition of Office of Profit under the Constitution, the separation of legislative and executive powers, and whether the Members of Parliament should hold non-legislative offices, should be examined in depth by a Special Committee constituted by the Parliament. The recommendation of that Committee should be taken up for consideration and implementation. So, Sir, the necessity has arisen to amend the Act. It is being done today. But to avoid any problem in future we should go deeper into this question and a clear definition of Office of Profit should be determined in future so that there will not be a problem as to which office can be treated as office of profit and which bodies can be treated as office of profit, and there will be a clear definition of office of profit.

SHRI BHANWAR SINGH DANGAWAS (NAGAUR): Sir, I would like to submit that we should first constitute a Committee to suggest the definition of 'office of profit' and then we should pass the Bill.

MR. DEPUTY-SPEAKER: No. Please sit down.

Now, Shri Mohan Singh.

श्री मोहन सिंह (देवरिया) : उपाध्यक्ष महोदय, मैं इस विधेयक के हक में हूं और इसका समर्थन करता हूं। लेकिन हमारी कुछ दिमागी परेशानियां हैं जिन्हें हम इस सदन के साथ बांटना चाहते हैं। इसलिए हम उन परेशानियों की चर्चा करना यहां आवश्यक समझते हैं। इस सदन ने कुछ कीर्तिमान बनाये हैं।

पिछले सदन में हमने एक कीर्तिमान बनाया, जिसके तहत 10, 15, 20 या 25 हजार रुपये के प्रलोभन में आये मैम्बरों को हमने बेरहमी के साथ इस पार्लियामैंट से बाहर कर दिया। उसके तीन महीने बाद बहुत ही ईमानदारी और सच्चाई के साथ करोड़ों रुपये के बजट पर बैठने वाले 40 मैम्बरों, 24 मैम्बरों या 16 मैम्बरों की मैम्बरी पर जब आंच आने लगी, तो इसी संसद का इस्तेमाल करके उनकी मैम्बरी को बचाने का हम इंतजाम कर रहे हैं। मैं कहना चाहता हूं कि आगे चलकर इतिहास कहीं हमारे बारे में न लिखे, क्योंकि उस चर्चा में भी मैंने कहा था कि हम इस बात के लांछन के भागीदार न हों कि हमारे पास सदस्यों को तोलने के दो तराजू हैं -- एक पांच हजार रुपये घूस की चाह में अपनी इज्जत बेचने वालों के प्रति और दूसरी जनता के करोड़ों रुपये और बजट पर बैठकर उसका अपव्यय करने वालों के प्रति। मैं ऐसा समझता हूं कि ये परस्पर विरोधी बातें हैं। इसलिए हमारे संविधान बनाने वालों ने संविधान के अनुच्छेद 102 और 103 को किसी खास मंशा से बनाया था। वह खास मंशा थी कि हम ऐसी

किसी कार्यकारिणी के, एग्जीक्यूटिव के पदों पर आसीन न हों जिससे कि जो हमारा लेजिस्लेटिव बिजनेस है, जिस काम के लिए हम यहां आए हैं, वह पीछे चला जाये और जो कार्यकारी काम हैं, जो हमारे स्वतंत्र कार्य करने के तौर-तरीके हैं, उनके ऊपर उसका नियंत्रण न हो जाये। इसी मंशा से उक्त अनुच्छेद में प्रावधान किया गया था। अभी हमारे एक मित्र कह रहे थे आफिस ऑफ प्रॉफिट क्या है, इसकी इस धारा में परिभाषा नहीं की गयी है, लेकिन इसकी परिभाषा की गयी है। वर्ा 1954 में पंडित ठाकुर प्रसाद भार्गव की अध्यक्षता में एक कमेटी बनायी गयी थी, जब मावलंकर साहब यहां स्पीकर हुआ करते थे। उस कमेटी ने इस परिभाषा को निर्धारित करने में तीन वर्ा लगाये। इस बीच वर्ा 1958 में दूसरी लोक सभा आ गयी। उस समय आयंगर साहब ने उस परिभाषा को प्रवर समिति के सुपुर्द किया। उसके बाद वर्ा 1959 में कानून आया, यानी 1959 का कानून बनाने में इस संसद को पांच वर्ा लगे।

15.00 hrs.

जब 1959 के उस कानून में दोबारा संशोधन करने की जरूरत पड़ी तो वर्ा 1968 में एक विधेयक पेश किया गया लेकिन फिर वर्ा 1977 का चुनाव आ गया और अपने आप वह कानून निरस्त हो गया। उस विधेयक को संसद पास नहीं कर सकी, तीन साल के अन्तराल के बाद भी यह संसद उसे पास नहीं कर सकी। लेकिन इस बार तीन दिन पहले नेता सदन ने एक बैठक बुलायी, हम लोगों से कुछ पदों की सूची मांगी, हम लोगों ने कुछ पदों के नाम दिए और इस बाद इस सदन के सामने यह विधेयक आ गया है। अब इसके पारित होने की भी पूरी संभावना हो गया है। हमारी भोजपुरी भाषा में एक कहावत है -" चट मंगनी पट ब्याह" इसी तरह हमने इस काम को झटपट यहां शुरू कर दिया। जिस दिन सदस्यों को निकालने का कानून यहां पारित हो रहा था, उस दिन नेता सदन ने टी.एस. इलियट के कुछ पद्यों का हवाला दिया था जिनमें त्याग और कुर्बानी की बड़ी-बड़ी बातें कही गयी थीं। मुझे अंग्रेजी भाषा का ज्यादा ज्ञान नहीं है, इसलिए मुझे टी.एस.इलियट की कविताएं, कहानियां और पद्य याद नहीं हैं। मैं एक भोजपुरी भाषी आम नागरिक हूँ और हमारे यहां भोजपुरी में एक कहावत है :

"राम जी की चिरई, राम जी का खेत। भाग जा चिरई, भर-भर पेट।।"

इसका अर्थ यह है कि जनता का पैसा है, हम लोग जनता के प्रतिनिधि हैं, उस पैसे से अपना भरपेट भोजन हम सभी को करना चाहिए। कहीं हम इस बात को तो सिद्ध और चरितार्थ नहीं कर रहे हैं? इसलिए यह बड़ी विचित्र बात है कि 545 सदस्यों के इस सदन में 20-25 लोग लाभ के पद पर रहें और बाकी लोग उनके लिए ढोल बजाते रहें और उनकी ईमानदारी और सच्चाई की रक्षा के लिए इस सदन के जरिए अपने हाथ उठाकर अपने मन्तव्य व्यक्त करके उसका अनुमोदन करते रहें। मुझे यह बात कुछ अटपटी सी लग रही है। ...(व्यवधान)

उपाध्यक्ष महोदय : कृपया शान्त रहें।

श्री मोहन सिंह : कुछ दिन पहले इसी सदन में एक घटना हुई जब यह सदन अनिश्चित काल के लिए स्थगित कर दिया गया और स्थगन के बाद किसी एक व्यक्ति ने, इस सदन की सदस्यता से त्यागपत्र दे दिया। पूरे देश में यह प्रचारित किया गया कि त्याग की ऐसी मिसाल भारत के इतिहास में कभी देखने को नहीं मिली और 13-14 पदों से त्यागपत्र दिए गए। फिर एक महीने बाद चुनाव हुए, अखबारों ने लिखा - मैसिव मैण्डेट मिला, और फिर वक्तव्य आया कि इतना बड़ा, मैसिव मैण्डेट केवल त्याग की ऐसी मिसाल पेश करने के लिए हमें मिला है। मैं आपने वामपंथी साथी को यह आश्वस्त करना चाहता हूँ कि मैं किसी व्यक्ति विशेा को टारगेट नहीं करना चाहता हूँ लेकिन एक लोकसभा निर्वाचन क्षेत्र में सबकी जमानत जब्त कराकर केवल त्याग के नाम पर एक व्यक्ति को भारी बहुमत, अंग्रेजी अखबारों की हेड लाइन थी - मैसिव मैण्डेट - दिया गया। अब जिस पद से त्यागपत्र देने के कारण यह मैसिव मैण्डेट मिला, यदि उस पद को अलाभकर घोाति कर पुनः उसी व्यक्ति को उस पद पर बैठा दिया जाए तो यह उस मैसिव मैण्डेट का सम्मान होगा या अपमान, इस प्रश्न का उत्तर मैं दूसरों से चाहता हूँ।

दूसरी बात मैं यह कहना चाहता हूँ कि लाभ का पद था, उससे इस्तीफा दिया गया तो लाभ के पद पर रहने पर जो खर्च हो रहा था उससे अधिक खर्च चुनाव में हो गया, तो मैंने अपने मित्रों से कहा कि इससे सस्ता तो वह लाभ का पद ही था। इसलिए इस सदन का कोई भी सदस्य इतना बड़ा त्याग न करे जो पब्लिक एक्सचेकर के लिए इतना खर्चीला साबित हो। हमें इस खर्च को बचाने की कोशिश करनी चाहिए। मैं इस विधेयक का समर्थन करता हूँ लेकिन मेरे मन में इसे लेकर कुछ परेशानियां हैं क्योंकि हमारी पार्टी की एक सदस्या, जो इस देश की प्रतिठित कलाकार हैं और पूरे देश में ज्ञात हैं, की सदस्यता इस कानून के कारण चली गयी। देश भर में कहा गया कि जब लाभ के पद पर बैठे हैं तो जाना ही चाहिए, लेकिन लोगों को पता नहीं था कि हमारे हाथ से चला हुआ खंजर उसकी पीठ से होता हुआ हमारी छाती पर ही गिरने वाला है और यदि यह स्थिति लोगों ने समझी होती तो यह कानून जो आज इस सदन में आया है, तीन महीने पहले ही सदन में आ गया होता।

मैं अपनी इन कुछ आशंकाओं के साथ एक निवेदन करना चाहता हूं। बेहतर यह होगा कि हमारी संविधान की धारा 102 और 103 का बार-बार अपमान करने की बजाए इन्हें खत्म कर दिया जाए। पहले पद बनाओ, उस पर बैठो और पार्लियामेंट का इस्तेमाल करते हुए उस पद को अलाभकारी घोाति करते हैं तो यह संविधान निर्माण करने वाले नेताओं और साथ ही हमारी मर्यादाओं का भी अपमान है। हमारे कानून मंत्री इन

अनुच्छेदों के स्थाई समाधान के लिए एक सर्वदलीय समिति बनाए और संविधान की इन धाराओं को हमेशा के लिए समाप्त कर दें और जिसको आप पसंद न करते हों, उसको संसद से बाहर और जिसको पसंद करते हों उसकी मैम्बरी बचाने के लिए 1959 के कानून में परिवर्तन करते रहें। इस संसद को इस दुविधा से बचाने के लिए यह एक बेहतर उपाय होगा।

श्री सीताराम सिंह (शिवहर) : उपाध्यक्ष जी, मैं इस विधेयक का समर्थन करने के लिए खड़ा हुआ हूं। इस विधेयक की आज बहुत आवश्यकता है। बड़ी विाम परिस्थितियों में यह संशोधन विधेयक लाया गया है। बड़ी विद्वतापूर्वक तरीके से इस विधेयक पर यहां बहस चल रही है। संविधान के अनुच्छेद 102 और 103 को देखने से यह स्पट है कि जो विधेयक सदन में लाया गया है और जिस पर चर्चा हो रही है उसकी परिभाा मूल रूप से जो संविधान में है, वह अभी भी परिभाति नहीं है। संविधान में जो परिभाा दी गयी है, उसमें कोई पद की कहीं से भी व्याख्या नहीं है। आज जो यह ि वधेयक आया है उससे स्पट है कि आज माननीय सांसदों और माननीय विधायकों की जो स्थिति है, इसी कारण कुछ पदों की व्याख्या करते हुए, संशोधन के जरिये, पार्लियामेंट ने इसे पास करना है।

महोदय, इसके पढ़ने से महसूस हो रहा है कि इसमें काफी त्रुटियां हैं। महोदय, मैं पहला बिंदु साफ करना चाहता हूं। जब यह विधेयक प्र ास्तुत हो रहा था तो माननीय विरोधी दल के नेता ने जिस तरीके से इसका विरोध किया, मैं समझता हूं कि न तो उनका कोई तर्क सही था और न ही व्याख्या सही थी। केवल राजनीतिक प्रतिद्वंद्विता के चलते किसी एक व्यक्ति विशेा को टार्गेट करके इसका विरोध हो रहा था। बात बहुत साफ है। ऊपर जो व्याख्या की गयी है उसके बाद 45 पदों को इसमें लिखा गया है। इसमें कुछ राज्यों की व्याख्या है। मैं माननीय मंत्री जी से इस विधेयक के माध्यम से जानना चाहता हूं कि क्या जिन राज्यों के नाम इसमें लिखे गये हैं, अगर यही संस्था दूसरे राज्यों में भी हैं तो क्या वे पद लाभ के पद से अलग हैं या लाभ के पदों में शामिल हैं ।

महोदय, यह बात भी साफ होनी चाहिए, क्योंकि कई राज्यों के नाम इसमें लिखे गए हैं और देश के कई राज्यों के नाम इसमें नहीं लिखे गए हैं। दूसरी बात जो इसमें स्पट है वह यह है कि आज जिन पदों को लाभ के पद से अलग किया जा रहा है, उन पदों को आज भी देश के कई राज्यों में लाभ के पद के रूप में माना जाएगा क्योंकि उन पदों पर वेतन और भत्ते दिए जाते हैं। इसमें एक पंक्ति सबसे ऊपर लिखी गई है और वह स्पट है कि चाहे किसी न्यास के लोग हों और जो अनुसूची में विनिर्दिट निकाय नहीं हैं उसमें अध्यक्ष का पद या दूसरा कोई भी पद हो, इसकी व्याख्या 45 पदों के बारे में होने की गुंजाइश नहीं थी। एक बात इसके ऊपर लिखी है कि "सारणी में विनिर्दिट किसी कानूनी या अकानूनी निकाय में अध्यक्ष या उपाध्यक्ष या सचिव या कोई भी ऐसा पद हों", इससे साफ हो जाता है कि देश के तमाम हिस्सों में चाहे राज्य सरकार के अंदर हो या भारत सरकार के अंदर हो, जब दोबारा इन पदों की व्याख्या की गई, तो एक दूसरा विरोधाभास दिखाई पड़ता है। मुझे लगता है कि इसे माननीय मंत्री जी को स्पट करना चाहिए, जिसके बारे में उन्होंने स्पट नहीं किया है।

तीसरी बात जो माननीय सदस्य कह रहे थे, मुझे भी उस पर कुछ कहना है। इसी सदन में 11 सदस्यों की सदस्यता समाप्त की गई। बहुत कड़ा दंड उन्हें दिया गया। तब हम सभी लोग बहस में भाग ले रहे थे और हम सभी लोगों ने एक स्वर में पारित किया। विरोधी दल के कुछ सदस्यों ने विरोध किया था। मैं उस प्रसंग पर बोलना नहीं चाहता, क्योंकि विधेयक पर बहस हो रही है। महोदय, मगर मैं सरकार, संसद और माननीय अध्यक्ष से भी आग्रह करना चाहता हूं कि बहुत कठोर दंड माननीय सांसदों को दिया गया है। आज यह भी विचारणीय विाय है कि ऐसे माननीय सांसदों के ऊपर भी विचार किया जाए। इसके साथ मैं यह भी कहना चाहता हूं कि एक पक्ष रह गया था, जिसकी व्याख्या ठीक से नहीं हो पाई थी, क्योंकि हम लोगों ने बड़े क्रांतिकारी कदम उठाए थे और हम सभी लोग उसकी पार्टी बने हैं, पूरी संसद उसके लिए पार्टी बनी है।

महोदय, एक और विचारणीय विाय है। जिन लोगों ने पैसे का लालच दिया था, उन पर कोई कार्यवाही नहीं हुई। यह एकपक्षीय कार्यवाही हुई है और जिन्हें कैमरे में कैद किया गया था, उन्हें फांसी की सजा दी गई। इस बारे में एक बार विचार करना आवश्यक है।

अंत में मैं कहना चाहता हूं कि माननीय सदस्य श्री मोहन सिंह ने ठीक कहा है। आज भी 46 व्यक्ति और 200 विधायक इसमें शामिल हैं। कई सरकारें जाने वाली हैं। आनन-फानन में सबको अच्छा लग रहा है। हम लोग अच्छी तरह से समझते हैं, विपक्ष के लोग इसे प्रस्तावित करने का िवरोध कर रहे थे। कई राज्य सरकारें इस कारण जाने वाली हैं। माननीय सदस्यों ने बिलकुल सही राय दी कि इसकी व्याख्या और परिभाा विशेा समिति बना कर की जाए। जो मूल विधेयक का संसोधन दिया है, उसे पास कर दिया जाए लेकिन मात्र इससे ही काम नहीं चलेगा क्योंकि कई राज्यों में यह झंझट खड़ा होगा। सवाल सिर्फ माननीय सांसदों का नहीं है, चुने हुए प्रतिनिधि चाहे विधायक हों या माननीय सांसद हों, सभी के सामने यह परेशानी आने वाली है और सिर्फ कानून पास कर देने से इस देश की परेशानी खत्म होने वाली नहीं है इसलिए सम्पूर्ण विश्लेाण हो और पूरी व्याख्या हो, तब उस व्याख्या के ऊपर निर्णय हो। चाहे जितना भी वक्त लगे, सरकार इसकी पूरी व्याख्या करवा कर कानून लाए, संशोधन लाए।

इन्हीं शब्दों के साथ मैं इस विधेयक का समर्थन करते हुए अपनी बात समाप्त करता हूं।

श्री सुखदेव सिंह ढींडसा (संगरूर) : आज सदन में जो बिल पास करने जा रहे हैं, मैं उसकी मुखालफत करने के लिए खड़ा हुआ हूं। संविधान हमारे बुजुर्गों ने बनाया है, इसमें क्लियर लिखा है कि लैजिसलेशन की क्या पावर होंगी, ज्यूडिशियरी की क्या पावर होंगी और एक्जीक्यूटिव की क्या पावर होंगी। इसमें लिखा है कि एक्सैप्ट मिनिस्टर्स जो लैजिसलेचर्स होंगे, कोई भी लाभ का पद नहीं लेंगे। यह इसलिए किया गया क्योंकि वे अपनी ड्यूटी कानून बनाने में लगाएं न कि इसका उपयोग वे कब्जा करने के लिए करें। आज ऐसा क्यों हो गया? आज हम ज्यूडिशियरी की बात कर रहे हैं कि वे अपने अधिकारों से ऊपर जा रहे हैं। हमें ज्यूडिशियरी कह रही है कि पार्लियामेंट या असैम्बली के कार्य संविधान में हैं लेकिन वे इसके ऊपर जा रहे हैं और एक्जीक्यूटिव दोनों को कह रही है। मैं समझता हूं कि संविधान की कोई सेंक्टिटी नहीं रहती अगर हम ऐसे ही कानून बनाते चलेंगे।

उपाध्यक्ष महोदय, मैं आपको एक मिसाल देना चाहता हूं। हमने दो साल पहले बिल पास किया कि चाहे पार्लियामेंट हो या असैम्बली हो, पन्द्रह प्रतिशत की स्ट्रैंथ से ज्यादा मिनिस्टर नहीं बन सकेंगे। लेकिन इसकी सेंक्टिटी क्या रही जब सभी राज्यों में चीफ पार्लियामेंटरी सैक्रेट्री, पार्लियामेंटरी सैक्रेट्री और जितने मिनिस्टर पहले थे उससे भी ज्यादा मिनिस्टर पैदा कर दिए गए। मैं आपको मिसाल देना चाहता हूं कि वे कोई भी ड्यूटी नहीं निभा सकते हैं क्योंकि पार्लियामेंटरी सैक्रेट्री के पास कोई फाइल नहीं जाती, कोई मिनिस्टर फाइल नहीं भेजता इसलिए वे मिनिस्टर का काम भी नहीं कर सकते हैं। वे असैम्बली में एम.एल.ए. के तौर पर काम भी नहीं कर सकते क्योंकि वे पार्लियामेंटरी सैक्रेट्री हैं इसलिए वे कोई सवाल नहीं पूछ सकते हैं। वे मिनिस्टर नहीं हैं इसलिए वे न तो असैम्बली में सवाल पूछ सकते हैं और न ही असैम्बली में जवाब दे सकते हैं। आप बताएं कि जब पार्लियामेंट के एक्ट की सेंक्टिटी नहीं रखनी है तब इसे पास करने का क्या फायदा है? तब तो हम इसे उस वक्त ही न पास करते, जिसकी जितनी इच्छा है उतने मिनिस्टर बनाओ, बनाते चले जाओ। मैं इसलिए कह रहा हूं कि यदि कोई बिल बनता है तो उसकी कोई सेंक्टिटी तो रहनी चाहिए। संविधान में अधिकार मिले हैं, वे अधिकार उसी के पास रहने चाहिए। इसके लिए हम क्यों एतराज करते हैं, ज्यूडिशियरी पर क्यों एतराज करते हैं जब हम अपनी मर्जी से कानून बनाते हैं।

मैं माननीय मोहन सिंह जी से बिल्कुल सहमत हूं कि क्यों नहीं आर्टिकल 102 खत्म कर देते? जब सरकार बदलेगी तो दूसरी सरकार आएगी। जैसे आर्टिकल 356 है, जब सैंटर में सरकार कोई होती है और राज्य में दूसरी होती है तब इसका सहारा लेकर आर्टिकल 356 लागू कर दिया जाता है और इस आर्टिकल के तहत सरकार तोड़ दी जाती है। हमारी पार्टी इसलिए कह रही है कि आर्टिकल 356 खत्म किया जाना चाहिए। मैं इस बात से भी सहमत हूं कि आर्टिकल 102 भी खत्म कर दें क्योंकि जब सरकार बदलेगी तब इसके सहारे सरकार के बनाए हुए नियमों को तोड़ देगी। अगर इसका मिसयूज करते रहेंगे तो इसका फायदा क्या है? आप क्यों नहीं ज्वाइंट पार्लियामेंटरी कमेटी बनाते हैं? यह कितनी बार हुआ है और हमारी पार्टी ने कितनी बार लिखा है कि संविधान में रिव्यू होना चाहिए और फैडरल सिस्टम बनना चाहिए।

इसमें पूरी तरह से स्टेट्स की कोई पावर्स नहीं रहती। कितनी कमेटियां बनीं, लेकिन उनकी रिपोर्ट नहीं आती, यदि रिपोर्ट आ भी जाए तो उसे कोई इम्पलीमैन्ट नहीं करता। इसलिए मैं कहना चाहता हूं कि जिस संविधान को हमारे बुजुर्गों ने बहुत मेहनत से बनाया, कृपा करके उसकी ऐसी धज्जियां मत उड़ाओ। जो भी नई सरकार बनती है, वह अपने मैम्बर्स और सरकार को बचाने के लिए अपनी मर्जी से जब चाहे कानून में चेंज कर देती है। ऐसा क्यों होता है? मैं आज यह वार्निंग देना चाहता हूं कि जो हमारा डेमोक्रेटिक सिस्टम है, आज वह आहिस्ता-आहिस्ता खत्म होता जा रहा है। अगर हम इस सिस्टम के साथ हम यूं ही रोज खिलवाड़ करते रहेंगे तो हमारा यह सिस्टम खत्म हो जायेगा। मैं किसी स्पेसिफिक पार्टी या इनडिविजुअल के

लिए नहीं कहता। लेकिन डेमोक्रेटिक सिस्टम के लिए यह जरूरी है कि इसके कोई पैरामीटर्स रखे जाएं, हर रोज ऐसी बात नहीं होनी चाहिए कि जो पार्टी पावर में आये, वह अपने मैम्बर्स और अपनी पार्टी को बचाने के लिए कास्टीट्यूशन को जब चाहे अमैन्ड कर ले। ऐसा बिल्कुल नहीं होना चाहिए। मैं इसके खिलाफ हूं। इसलिए मेरी यही रिक्वैस्ट है कि इस बिल को पास करना आज ही जरूरी नहीं है। इस बिल पर विचार करने के लिए कोई कमेटी बना दी जाए। अभी पहले 46 मैम्बर्स की लिस्ट थी, अब वह 55 मैम्बर्स की हो गई है। हो सकता है कि जितनी देर में वोटिंग होगी, तब तक पांच-दस मैम्बर्स और आ जाएं। इसलिए हम कहना चाहते हैं कि आप आर्टिकल 102 को समाप्त क्यों नहीं कर देते। हम लोग फिर आयेंगे, फिर से लॉ मिनिस्टर इसे लायेंगे कि इसमें से यह क्लाज निकाल दो, यदि किसी स्टेट का मामला आ गया तो कहा जायेगा कि इसमें यह कारपोरेशन और यह बोर्ड भी रह गया है, इसलिए इसे भी डाल दो। फिर अगले सत्र में उसे डाल दिया जायेगा। मैं अपनी पार्टी की तरफ से इसे अपोज करने के लिए खड़ा हुआ हूं, यह बिल पास नहीं होना चाहिए। हमारी पार्टी इसके खिलाफ है। इतना कहते हुए मैं अर्ज करना चाहता हूं कि इसे फिर से तैयार किया जाए।

श्री ब्रजेश पाठक (उन्नाव) : माननीय उपाध्यक्ष जी, हम हिन्दुस्तान में एक ऐसा कानून बनाने जा रहे हैं, जिससे पूरे राजनीतिक जनमानस में एक तहलका मच गया है, हाहाकार मच गया है। आज हिन्दुस्तान के विभिन्न राज्यों और केन्द्र सरकार में जो लोग लाभ के पदों पर बैठे थे, जिनमें संसद सदस्य भी थे और विधान सभा के सदस्य भी थे, उनमें से कई लोगों को इस्तीफे देने पड़े। विभिन्न प्रान्तीय सरकारों ने इस संबंध में कानून भी बनाये और केन्द्र सरकार को लोक सभा में इस बिल को लाना पड़ा। बहुजन समाज पार्टी की तरफ से हम इस बिल का समर्थन करने के लिए खड़े हुए हैं। लेकिन महोदय यदि इसे सही मायनों में देखा जाए, यदि हम अपनी आत्मा और अपने मन पर जोर डालें और देखें तो आज हिन्दुस्तान के पैमाने पर चारों तरफ त्राहि-त्राहि मची हुई है। चाहे किसानों का मामला हो, महंगाई का मुद्दा हो, बिजली का मुद्दा हो और चाहे पानी का मुद्दा हो। क्या पूरे देश में आज पानी की किल्लत नहीं है। लेकिन पानी के सवाल पर कोई कानून नहीं बदलेगा। बिजली के सवाल पर कोई कानून नहीं बदलेगा। देश के गरीबों लोगों को झुग्गी-झोंपडियों से हटाकर उन्हें पक्के मकान दिये जाएं, इस मुद्दे पर कोई कानून बनेगा। लेकिन जब बड़े लोगों की गरदनें फंसती हैं तो संविधान को इसी तरीके से तोड़-मरोड़कर परिवर्तित किया जाता है। हम यहां अपने मन की बात कहना चाहते हैं कि हमने इस पर बड़ी गंभीरता से सोचा और विचारा और हमे लगा कि हमें वही कहना चाहिए जो सही हो। मैं समझता हूं कि पूरा सदन अपनी आत्मा की आवाज पर इससे सहमत होगा। जब हमारे बीच के कुछ मैम्बर्स फंसे, 12 लोगों की सरेआम गरदनें काटी गईं। ऐसा क्यों हुआ, क्योंकि वे लोग छोटे थे, उनकी कोई राजनैतिक बैकग्राउंड नहीं थी। लेकिन जब बड़े लोगों की गरदनें फंसने लगीं तो आनन-फानन में कानून बनाया गया और इस तरह से कानून बनाया गया कि सब लोग बच जाएं। मैं पूरे सदन से अपील करना चाहता हूं कि क्या हमारे पास विश्वसनीय लोग नहीं हैं कि अपने मित्रों और साथियों को हम अपने द्वारा लाभ के पद दे सकें। क्या हमारे पास साथियों की कमी है, क्या यह जरूरी है कि हम चार-चार पद अपने आप रख लें। यह कहां की नैतिकता है। यह बहुत गंभीर विाय है। इसलिए हम सबको इसे बहुत गंभीरता से देखना चाहिए। ...(व्यवधान)

उपाध्यक्ष महोदय : आप शांत रहिये, वह इस बिल को सपोर्ट कर रहे हैं।

श्री ब्रजेश पाठक : यह मुद्दा बहुत गंभीर है। यह मजाक का विाय नहीं है। आज हम सदन में इस पर मजाक कर सकते हैं, लेकिन आने वाली पीढ़ियां किसी को माफ करने वाली नहीं है।

जब अपनी गर्दन फंसी तो कानून बना और गरीब आदमी फंसा तो उसकी गर्दन काट दी गई। कानून तो यहां पर बनना चाहिए कि हर गरीब आदमी के घर में पीने का साफ पानी मिलना चाहिए। कानून यहां पर बनना चाहिए कि पूरे हिन्दुस्तान के पैमाने पर शिक्षा समान होनी चाहिए, कानून यहां पर बनना चाहिए कि गरीब आदमी को कोई लूट-खसोट न पाए और उसे इज्जत स्वाभिमान की रोजी-रोटी मिल सके। लेकिन उस मुद्दे पर सर्वसम्मति से कानून नहीं बनेगा। लेकिन आज पूरा सदन एक है, चाहे इधर के लोग हों या उधर के लोग हों, आज पूरा सदन एक है। हमारे भाजपा के साथियों का विरोध भी सकारात्मक ही है। उनका विरोध नहीं है। केवल वे दुनिया को दिखाना चाहते हैं। उन्होंने झारखंड में बिल पास किया, पूरे हिन्दुस्तान ने जाना कि एकतरफा उन्होंने बिल पास किया है। ...(व्यवधान) यहां वे विरोध में हैं। मान्यवर, मैं अपने मन की बात कहना चाहता हूं।...(व्यवधान)

MR. DEPUTY-SPEAKER: Please do not interrupt the hon. Member. Nothing should be recorded except the speech of Shri Brajesh Pathak.

*(Interruptions) ...**

श्री ब्रजेश पाठक : हमको वह बात करनी चाहिए जो दुनिया देखेगी कि सही बात है। हम आपसे अपील करना चाहते हैं कि जब-जब हिन्दुस्तान में क्राइसेस आएंगे, तब-तब ऐसे कानून बनेंगे। संविधान को तोड़ा-मरोड़ा जाएगा। हम केवल आपसे एक अपील करेंगे।...(व्यवधान)

MR. DEPUTY-SPEAKER: Please sit down. Nothing will go on record.

*(Interruptions) ...**

श्री ब्रजेश पाठक : हम केवल आपसे एक अपील करेंगे कि केवल आम जनता के लिए पीने के पानी, बिजली और बेरोजगारी के सवाल पर कानून बनना चाहिए। हमारे हिन्दुस्तान में शिक्षा के मामले में प्राइवेट मैम्बर बिल में पहले से एक बिल लम्बित है, आज तक वह बैलट में नहीं आया क्योंकि लोगों को पता है क्योंकि वे एक्सपोज होंगे। आज जो शिक्षा व्यवस्था चल रही है, यह लार्ड मैकाले ने बनाई थी। इसे परिवर्तित होना चाहिए। गरीब का बच्चा दूसरी जगह पढ़ेगा, अमीर का बच्चा दूसरी जगह पढ़ेगा। यह सब कब तक चलेगा ?

MR. DEPUTY-SPEAKER: Please maintain silence in the House.

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* Not recorded.

श्री ब्रजेश पाठक : अंत में मैं दो लाइनें कहना चाहता हूं। हमारे महान कवि दिनकर जी ने लिखा है। मैं उनकी सिर्फ दो पंक्तियां कहना चाहता हूं कि केचुए कटिये में फंसाये गये, इस विधारी को दूध पिलाया गया। यह हमारे हिन्दुस्तान की परम्परा रही है, यह हमारे जनमानस का इतिहस रहा है। हम इस इतिहास को तोड़ना चाहते हैं। केंचुएं को मजबूत करना चाहते हैं। दबाये गये, कुचले गये और पिछड़े हुए लोगों को ताकत देना चाहते हैं। मैं पूरे सदन से अपील करना चाहता हूं कि आम जनता की आवाज को मजबूती के साथ रखें अन्यथा हिन्दुस्तान का जनमानस तो उन्हें जिताता रहेगा लेकिन कालचक्र उन्हें माफ नहीं करेगा, दंड के भागीदार सभी लोग होंगे, ऐसा मैं कहना चाहता हूं। इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूं।

MR. DEPUTY-SPEAKER: Next speaker is Shri Anant Gangaram Geete.

... (*Interruptions*)

श्री अनंत गंगाराम गीते (रत्नागिरि) : उपाध्यक्ष महोदय, संसद (निरर्हता निवारण) संशोधन विधेयक, 2006 के विरोध में यहां पर खड़ा हूं। यह जो संशोधन विधेयक सदन के सामने रखा गया है।...(व्यवधान)

उपाध्यक्ष महोदय :आपके यहां ही ज्यादा बातें होती हैं, पता नहीं क्या बात है ? बिल भी आपकी पार्टी का ही है और बातें भी आप ही कर रहे हैं।

...(व्यवधान)

MR. DEPUTY-SPEAKER: Please maintain silence in the House.

श्री अनंत गंगाराम गीते : उपाध्यक्ष जी, यह जो संशोधन विधेयक सदन के सामने रखा गया है, उसके उद्देश्यों और कारणों का कथन जो इस ि वधेयक में किया गया है, उसके परिच्छेद तीन का कुछ अंश यहां पर मैं पढ़ना चाहूंगा : " हाल में यह आवश्यक हो गया है कि लाभ का पद धारण करने के आधार पर संसद के सदस्यों की निरर्हता से संबंधित विवाद्यक की पुन: जांच की जाए। ऐसा हाल में हुई घटनाओं के कारण आवश्यक हो गया है, जहां संसद के दोनों सदनों से लगभग चालीस या उससे अधिक सदस्य विभिन्न कानूनी और अकानूनी निकायों के अध्यक्ष या सदस्यों के पद धारण किये हुए हैं और इस आधार पर निर्रहता संबंधित कार्यवाहियों का सामना कर हैं कि वे लाभ का पद धारण किये हुए हैं।

15.29 hrs. (Shri Mohan Singh in the Chair)

यदि इस कार्य स्थिति को बना रहने दिया जाता है तो बड़े पैमाने पर मुकदमेबाजी होना निश्चित है और संसद के दोनों सदनों में स्थानों के रिक्त होने की संभावना है, जिसके परिणामस्वरूप होने वाली रिक्तियों को भरने के लिए उप-निर्वाचन कराये जाने आवश्यक होंगे। यह एक व्यर्थ का व्यय होगा और इससे देश पर अनावश्यक वित्तीय भार पड़ेगा। "

सभापति जी, मैंने विधेयक के उद्देश्यों एवं कारणों के अंश इसलिये पढ़े जो साफतौर पर इस बात को सदन के सामने स्पट करते हैं कि इस सदन के जिन माननीय सदस्यों ने कानून को पारित किया था, उन्होंने ही इस कानून की अवमानना की है, उस कानून को तोड़ा है। यदि यह विधेयक पारित नहीं होता, तो जिन्होंने इस कानून को तोड़ा है, उसकी अवमानना की है, वे अपराधी कहलाये जायेंगे। यदि वे अपराधी कहलाये जाते हैं तो उन्हें इस पद से त्याग करना होगा।

सभापति जी, जब श्री बसुदेव जी बोल रहे थे, अब इस समय सदन में नहीं हैं, उन्होंने यह कहा था कि संविधान के अनुच्छेद 102(1)(क) में कई बार इसके पहले संशोधन किया गया है। इसलिये मुझे नहीं लगता कि जो कारण दिये गये हैं, वे कारण उस समय दिये गये होंगे। संविधान के अनुच्छेद 102(1)(क) के अंतर्गत जिन कारपोरेशन्स या मंडलों को हटाने के लिये सूची में नाम दिया गया है, उनकी संख्या 45 है। मुझे तो यही लगता है कि निर्वाचन आयोग ने जिन संसद सदस्यों की सूची जारी की है, उस सूची और इस सूची में कोई फर्क नहीं है। शायद उसी सूची को इस ि वधेयक में ले लिया गया है।

सभापति जी, विधेयक के इंट्रोडक्शन के समय नेता प्रतिपक्ष ने जिस अनुच्छेद का उल्लेख करते हुये अपना विरोध व्यक्त किया था और जिसे इस संशोधन विधेयक में समावेश किया गया है, मैं उसे पढ़ना चाहूंगा। 'भारत सरकार द्वारा मंत्रिमंडल सचिवालय के आदेश संख्या 631/2/1/2004, तारीख 31.05.2004 द्वारा गठित राट्रीय सलाहकार परिद् के अध्यक्ष का पद ' मंत्रीमंडल के निर्णय के बाद मंत्रिमंडल सचिवालय ने यह आदेश निकाला है। मैं सरकार से जानना चाहता हू कि जब सरकार यह संशोधन विधेयक लाई है, क्या इस पद के निर्माण के लिये लॉ मिनिस्ट्री से राय ली गई थी या नहीं? जिन पदों या जिन कॉरपोरेशनों को इस सूची में डालने का प्रयास किया गया है, उन्हें लाभ के पदों से हटाने के लिये जब सदस्यों को इन पदों पर नियुक्त किया गया, उनमें अधिकतर इस सदन के कई सदस्य ऐसे भी हैं जो कानून के बड़े ज्ञानी हैं। यह कहना उचित नहीं होगा कि उन्हें इस कानून की कोई जानकारी नहीं थी कि इस प्रकार का कोई कानून हमारे देश में है। यह कहना उचित नहीं होगा कि सब को इस कानून के बारे मे मालूम होगा। यह कानून इस सदन ने पारित किया है और वही सदस्य उस कानून की अवमानना करें और उसकी बाद उस अपराध को मिटाने के लिये कानून बदले, इसके सिवाय कोई दूसरा मतलब महीं हो सकता है।

सभापति जी, इसके पहले इस सरकार की विश्वसनीयता पर कई बार सवाल उठे हैं लेकिन यदि यह संशोधन विधेयक पारित होता है तो इस संसद की विश्वसनीयता पर भविय में सवाल उठ सकते हैं।

यह हम किसलिए करने जा रहे हैं? मंत्री जी इसकी जानकारी दें कि जिन कार्पोरेशन्स के नाम यहां दिये गये हैं, जिनको लाभ के पद से हटाने जा रहे हैं, इससे लाभान्वित होने वाले सदस्य कौन थे? क्या सरकार यह जिम्मेदारी नहीं मानती कि इससे लाभान्वित होने वाले सदस्यों के नाम इस सदन को बताए जाएं? यदि यह मामला न्यायालय में जाता तो वहां नाम जरूर सामने आते लेकिन सरकार नहीं चाहती कि इससे लाभान्वित होने वाले 45 सदस्य कौन हैं, उनके नाम सामने आएं और उनको बचाने का प्रयास किया जा रहा है। मुझे ऐसा लगता है कि ये 45 सदस्य हमारे संविधान से ऊपर हैं जिनको बचाने का प्रयास किया जा रहा है। इस सदन में कई बार हमने सदन की गरिमा पर चर्चा सुनी है। इस सदन में हमने कई बार सदन की गरिमा पर नैतिकता के पाठ पढ़े हैं, हमें पढ़ाए गए हैं। मुझे नहीं मालूम, मैं नहीं समझता कि इस विधेयक में जिनको हम राहत देने जा रहे हैं, क्या उससे इस सदन की गरिमा बढ़ेगी। इसमें क्या नैतिकता है? हम क्या करने जा रहे हैं और किसलिए करने जा रहे हैं? इस सदन में कोई एक सदस्य गलत व्यवहार करता है, गलती से बुरा-भला कह देता है तो सारा देश उसको देख रहा है। आसन से कहा जाता है कि मुझे शर्म आती है - "I am ashamed". और यह गर्व की बात है? यदि यह गर्व की बात है तो आप पारित करिये, मुझे कोई एतराज़ नहीं है। जिस संसदीय लोकतंत्र को हमने अपनाया है, आज किस दिशा में हम अपने लोकतंत्र को ले जा रहे हैं? हम अपनी सुविधा के लिए अपने ही बनाए हुए कानून को तोड़ेंगे और फिर अपने आपको बचाने के लिए एक नया कानून हम ही पारित करेंगे - यह कैसी विश्वसनीयता सदन की रहेगी, कैसी विश्वसनीयता संसद की रहेगी? सरकार की तो विश्वसनीयता कभी नहीं रही। सरकार की विश्वसनीयता पर हमेशा सवाल उठते रहे हैं लेकिन यह बहुत गलत है और इसलिए हम सैद्धांतिक तौर पर, नैतिक तौर पर इसका विरोध करते हैं। जिस संसदीय लोकतंत्र की हम सराहना करते हैं कि यह सारी दुनिया का सबसे बड़ा लोकतंत्र है, क्या वह इस प्रकार का मज़ाक करने के लिए है, इस प्रकार का नाजायज़ फायदा लेने के लिए है? इसलिए यह जो संशोधन विधेयक आया है, यह संविधान और संसद की गरिमा को खत्म करने वाला है। हम अपनी पार्टी की ओर से इस संशोधन विधेयक का पुरज़ोर विरोध करते हैं।

SHRI BRAJA KISHORE TRIPATHY (PURI): Hon. Chairman, Sir, I stand to oppose the Parliament (Prevention of Disqualification) Amendment Bill, 2006.

In the proposed Bill, the hon. Minister originally sought to exempt 46 offices of profit. Now, within the period of a few hours, that number has gone up to 56. I do not know how many more offices will be brought under the purview of the Bill by the time it comes to the stage of passing. Perhaps the hon. Minister has no idea of that but can he tell us the exact figure?

Sir, this is the fate of this Parliament. Now the cat is out of the bag. The Government is completely exposed and its alliance parties are also exposed. Their highly propounded *aaj ka mahatma* and the so-called sacrifice are also exposed. It reminds me of the writing of the famous author, Mr. George Orwell who has written a novel called "The Animal Farm". Satirically, he has made a reference about the democracy of animals in that novel. In their constitution, all are equal but some are more equal than others. Now, the hon. Minister has asked us through this Bill to give a stamp to make some Members more equal. As per the Constitution, all are equal but some are going to be more equal. This is what the hon. Minister has tried to express in this legislation. So, we are now following the animal constitution and not the human constitution. The Minister has brought Parliament to this level.

What is happening outside Parliament? The entire media is laughing at us. The Parliament is becoming a laughing stock because of this legislation.

This reminds me of the pre-emergency period. What had happened at the time, when Shrimati Indira Gandhi, the then Prime Minister, was defeated in the Allahabad High Court in an election case? She used this Parliament to amend the Constitution and to amend the election laws flouting the decision of the court. Now also, the hon. Minister is using the Parliament just for the benefit of some Members of the ruling party. If this Parliament passes this Bill protecting all prominent Members, then every State will follow suit and there will be a spate of legislation in States totally circumventing articles 102 and 191. By this amendment, the spirit of the Constitution is going to be diluted and defeated. Any further amendment or legislation to exempt a large number of Offices of Profit will make articles 102 and 191 redundant. Then what will happen? Is it enough to enlarge the exemption list or is a clear definition necessary now? The hon. Minister should react to this point. Or should we go to the roots of the problem and strike off the clause disqualifying the MPs if they hold such offices? We have also not examined the rationale behind this concept and how important or relevant it is in the present day context. The Minister should reply to this point.

I would just like to remind you that the Constituent Assembly debates do not appear to contain a detailed discussion of the need for or the implication of article 102 which seems to be a faithful adoption of whatever was in vogue in the House of Commons. We have just adopted the provisions of the House of Commons. There is no detailed discussion on this aspect.

Articles 18, 58, 59, 64, 158, 102 and 191 of the Constitution deal with the clause of Office of Profit. Article 102 (1)(a) of the Constitution disqualifies MPs if they hold any Office of Profit under the Central or State Governments except those listed in the Parliament (Prevention of Disqualification) Act, 1959. Yet, the law of 1959 is silent on which Office of Profit is exempted and there is no strong ground or logic behind this exemption. What is the logic behind this? Why some offices should be exempted and why other offices will remain? What is the reason behind this? Why not all offices are exempted? What is the meaning of article 102 then? If you do not want the provisions of this article of this Constitution to remain, then we can repeal this saying that there is no need for it. If at all you want to maintain the spirit of the provisions of article 102, then I feel that this type of an amendment seems to be a mockery of parliamentary democracy.

The philosophy behind article 102 must have been the separation of power. Since a Member of Parliament or Legislative Assembly represents the legislature, which ought to enjoy independence and must be free to criticise the Executive, MPs holding an office of profit under the Government might involve a conflict of interest, diluting their independence.

Parties in power might create posts indiscriminately and use them to accommodate their Members, just as it is being done now. This amendment has been brought forward to accommodate some MPs. When other parties come to power they will also do the same thing. They will also follow the same example that we are setting today. … (*Interruptions*)

Article 102 has already virtually neutralised itself by providing for legislative exemption in the article itself. Now, it is only to be expected that more and more posts would get exempted.

The National Commission which was appointed to review the working of the Constitution recommended that Constitution should be suitably amended to empower the Election Commission to identify which offices should be deemed to be offices of profit and which are not. Until that happens the criteria fixed by the Supreme Court should be the "settled law". Now, we are diluting that thing.

The Act of 1959 itself is of doubtful validity. Any further dilution of article 102 will be struck down by the Supreme Court as a fraud on the Constitution. Its object is not only to prevent conflict of interests but also to prevent the sale of souls. Can the hon. Minister assure this House that the Supreme Court will not strike down this provision that we are bringing in today? If the Supreme Court strikes down this provision, what will happen to the prestige of the House? I want to know this from the hon. Law Minister.

The damage was done by the Parliament through the Prevention of Disqualification Act, 1959. It was a cynical measure, in a complete break from the past. It was a substantial consolation prize to legislators who were denied ministerial berths. It is also a means of evading the ceiling of Cabinet berths. When we are not able to adjust the MLAs and MPs in the Cabinet, we are increasing these exemptions and take them out of the purview of the office of profit.

The House of Commons Disqualification Act, 1975 bars MPs from membership of public authorities and undertakings. We are following mostly the British Constitution. Hence it is now a dilution and mockery of parliamentary democracy.

No MP or MLA should occupy any office other than created by this House. We do not object to that if the House creates some posts. But it should not be done in this way. We have some posts created by the Parliament, like some posts in Coffee Board, etc. But it should not be done by way of dilution. If the Minister and the Government feels that provision of article 102 is redundant and is not necessary, then they can go for a Constitution (Amendment) Bill to repeal this provision of article 102. But it should not be done in this way.

With these few words I oppose this Bill. My Party is also opposing this Bill.

SHRI VIJAYENDRA PAL SINGH (BHILWARA): Sir, I just want to make one point here. A special Session has been called only to discuss the office of profit. Heavens are not going to fall if we allot more time to discuss this. We also want to speak on this. Why is it that at 4 o'clock we want to pass it? What is the hurry about it? We also want to speak on this.

SHRI KINJARAPU YERRANNAIDU (SRIKAKULAM): Mr. Chairman, Sir, the hon. Minister for Law and Justice has brought this Bill bypassing the rules and procedures and everything, with the permission of the Speaker.

There is no necessity. There is no hurry to bring this Bill hurriedly. It had never happened. This Bill was enacted in the year 1959. After 1959, it was amended five times in the years 1960, 1977, 1993, 1999 and 2000. But it had never happened with retrospective effect. All the time, the laws were with prospective effect. What is the necessity? What is the need to amend this Act with retrospective effect – to safeguard some people? The Statement of Objects and Reasons has been necessitated due to the recent developments. This concerns approximately 40 or more Members from both the Houses of Parliament who are holding offices of Chairman or they are members of various statutory, non-statutory bodies and who are facing disqualification proceedings on the ground that they are holding an office of profit. There is nothing wrong in it. Madam Gandhi also resigned. She has been re-elected and has come to the House. After the petition was filed against her, she resigned on moral grounds, or whatever may be, and she contested the election. Why have you given this exemption to all these people with retrospective effect? For the first time in the country, we are amending the Act with retrospective effect. My party opposes this 'with retrospective effect' and everything.

Sir, I come to this article 101 – disqualification from the Membership. Even article 191 relates to the members of the Legislative Assemblies. So, what is the spirit of these articles? We have a right, the Parliament has a right, to enact a law, to give exempt who are holding office of profit. I admit it. I also voted in the years 1999 and 2000. I was a part of the Amendment Bill. I supported it. Even now, I decided to support it. But I am not happy with the way the Congress got this Bill. Nobody knew in the country that there was a Disqualification Act in the year 1959. So many amendments were made. After Shrimati Jaya Bachchan's disqualification, after Shrimati Sonia Gandhi's resignation only, the country could know office of profit Act, the Disqualification Act. I would like to ask the Law Minister that the Congress Government… (*Interruptions*)

सभापति महोदय : आप बैठ जाइए।

SHRI KINJARAPU YERRANNAIDU : Sir, supposing, one Congress worker has filed a petition against Shrimati Jaya Bachchan. The President made a reference to the Election Commission to enquire whether she comes under the office of profit or not. Okay, I understand it. It came in the newspaper. If the Minister had brought the amendment at that time, this problem would not have arisen. The Government was silent. Why were you silent? Why are you in a hurry about all these MPs? Please answer to this House, answer to the people. So, this step is a hasty one. There should be equality before law. The Government should take everybody in the same footing. We have not done in the Jaya Bachchan's case. Now, we want to protect so many people. If this had been done earlier, if the legislation had been brought in the last Session, this problem would not have arisen. You please see the list. According to this amendment, 45 entities are included. Even other entities will also come. So many people are leaving the list. I have no objection. But instead of that, at this time, a comprehensive law is required. In so many States, so many Corporations and so many trusts are also there. It is better to include at one stage. It is better to refer to the Standing Committee. It is better to bring a comprehensive law with all entities and everything, once and for all. Then, everybody will appreciate. It should not be done piecemeal. Otherwise, if we want to include 140 or 200 entities, it is better to abrogate or repeal articles 101 and 191. What is the sanctity if we include by every amendment 100 entities or 200 entities? In that case, the sanctity of the Constitution and the spirit of articles 101 and 191 would carry no meaning. Instead of that, it is better to repeal these two articles. If the Government wants to appoint any person, there would not be any office of profit; nobody will file petition before the President. Nobody will do anything. Everybody will enjoy. The spirit of the Constitution is to give respect. Any Member of Parliament, any Member of Legislature should not occupy office of profit. They may influence, they may get something. But, some exemptions are there. That is why the Constitution has given power to the Parliament to amend, to enact and also to give some exemptions. It means you have to include anything that deserves in a proper

manner. So, even though we are supporting this thing but this is not the proper way. In future you have to be very cautious. If something happens, you bring the legislation like that.

SHRI SURAVARAM SUDHAKAR REDDY (NALGONDA): Sir, I rise to support the Bill introduced by the hon. Law Minister but… (*Interruptions*)

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI PRIYA RANJAN DASMUNSI): Yerrannaiduji, you spoke well. I would just intervene. We have embodied in the list 'A' all trusts private or public in general, all societies under the Societies Registration Act and 'B' all the statutory bodies. So, trusts are covered, societies are covered without any exception.… (*Interruptions*)

MAJ. GEN. (RETD.) B. C. KHANDURI (GARHWAL): Then why do you not repeal the Bill? You are having unlimited number of amendments. Why do you not repeal it and let it be done with it? How many times will you bring like this? Why do you not repeal the Bill?… (*Interruptions*)

SHRI KINJARAPU YERRANNAIDU : I want to respond to our Parliamentary Affairs Minister. You have included all the trusts and everything, what about the local bodies? … (*Interruptions*)

सभापति महोदय : केवल श्री सुधाकर रेड्डी ही बोलें।

SHRI SURAVARAM SUDHAKAR REDDY : Sir, I rise to support the Bill introduced by the hon. Law Minister but, to be frank, we are not happy with the way the Bill is introduced. But, the reasons are totally different from the friends of the BJP and from the Right. Sir, 52 years back in 1954, this type of discussion had taken place in this House and the then hon. Speaker, Shri Mavalankar had appointed a Committee which has been referred by the earlier speakers – Dr. Bhargava Committee. That Committee recommended a comprehensive Bill to be brought. Unfortunately, a comprehensive Bill has not come and even this Bill, I believe, is an *ad hoc* arrangement instead of a comprehensive Bill. There are all sorts of arguments regarding the disqualification for the membership issue. The entire nation is today discussing on this issue and some Members are saying that, just because this type of Bill is introduced, repeal the Article 102 of the Constitution. I would like to read what exactly the Article 102 is. It is about disqualification for membership. It says:

> "(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament –
> (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder; "

It is exactly in the same clause. The exemption is given which should be declared, which will not come under this law. So, I do not understand that if this law is enacted, why the whole Article should go. I do not think it is against the spirit of the Constitution or against the clause but the thing is that this definition on the question of disqualification is very vague. It may be very difficult to define. That is why various types of interpretations have come. But a time has come now that the Parliament should take it up more seriously and define what is an office of profit. There are several occasions where Members of Parliament will be asked to take up different type of responsibilities. Unfortunately, when this discussion is taking place, various types of interpretations and,

particularly, personalized politics are coming here. For example, the National Advisory Council is being taken as a target. It is not because of the National Advisory Council but because Shrimati Sonia Gandhi is holding that post. … (*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Sir, it is 4 o' clock now. On behalf of the Government, may I propose to the House that the 193 Motion can be deferred till the disposal of the Bill?

सभापति महोदय : यदि सदन की राय है, तो ऐसा किया जा सकता है।

SEVERAL HON. MEMBERS: Yes, Sir.

सभापति महोदय : ठीक है।

16.00 hrs.

SHRI SURAVARAM SUDHAKAR REDDY : Sir, the post of the Chairman of the National Advisory Commission is not very lucrative. The National Advisory Commission has been constituted to supervise the implementation of the Common Minimum Programme and I do not understand why that should not be accepted.

There are several other posts also. But it is true that since several hon. Members of Parliament are holding some of these posts, all these exemptions have been brought now. But the Parliament should enact a very clear legislation as to what are the posts that are to be disqualified, instead of adding some posts, which are occupied by Members of Parliament, to the list of exemptions every now and then. This is not the proper way.

I would appeal to my friends in the BJP and the NDA not to look at this whole issue in a sadistic way in order to target a particular Member and to see that some Members resign. This type of a legislation has become necessary because there is a danger that more than 45 Members of Parliament might be disqualified. Our friends in the NDA say that let them be disqualified. Can we take such an approach? We cannot take such an approach because this will create a lot of confusion. As there is no clear definition of the term 'office of profit, we need such a law immediately.

Sir, I would like to request the Government that they should seriously consider all the suggestions made by different political parties. The Left Parties have suggested that a Committee should be appointed to go into the issue of disqualification and the Committee should give a clear definition of the term 'office of profit'. This Committee should be set up in the near future and this should not be postponed. A Joint Committee on Office of Profit is already existing. But a Committee consisting of all the leaders of different political parties represented in Parliament should be constituted to discuss this issue and suggest a comprehensive Bill that should be introduced for this purpose. We have the experience of various other Parliaments also on this issue and different Parliaments have different provisions in this regard.

I would like to refer to the Report of the Bhargava Committee which suggested that various matters connected with disqualification of Members should be studied and recommendations should be made in order to enable the Government to come up with a comprehensive legislation before the Parliament. The Committee, which is to be created, should collect all the relevant data and make suggestions as to how the matter should be dealt with. Unfortunately that has not been done.

Secondly, it is not only the question of office of profit, but there are other issues like resignation from the House and other things. There are some Parliaments in the world which have more experience in democracy like

Great Britain, France and other countries. In the British Parliament, a Member cannot resign. He will only be disqualified. If a Member resigns, he cannot contest again and come back to Parliament. We have to discuss all these things. In our country also, we have gained a lot of experience in the last 54 years since the time of the First Lok Sabha. So, it is necessary that we should go into all these aspects.

Sir, while I support this Bill, I would like to suggest to the hon. Minister that he should come back to Parliament with a comprehensive Bill on this subject, after a Committee consisting of leaders of all political parties study and make recommendations. With these words, I support this Bill.

श्री प्रभुनाथ सिंह (महाराजगंज, बिहार) : महोदय, यह जो बिल आया है मैं इसका विरोध करता हूँ और इस विरोध का एक कारण है। इन्होंने इस बिल का जो उद्देश्य बताया है वह अजीब है। इन्होंने लिखा है :

"यदि इस कार्य स्थिति को बने रहने दिया जाता है, तो बड़े पैमाने पर मुकदमेबाजी होगी।"

मुकदमेबाजी से बचने के लिए यह बिल लाया जा रहा है। दूसरी बात इन्होंने लिखी है :

"और संसद के दोनों सदनों में स्थानों के रिक्त होने की संभावना है, जिसके परिणामस्वरूप उन रिक्तियों को भरने के लिए उपनि र्वाचन कराए जाने आवश्यक होंगे। यह व्यर्थ का व्यय होगा और इससे देश पर अनावश्यक वित्तीय भार पड़ेगा।"

इस बिल का उद्देश्य यह है कि मुकदमेबाजी न हो और उपचुनाव न हों नहीं तो वित्तीय भार से यह देश और सरकार दब जाएंगे और इस स्थिति से बचने के लिए इस सदन का उपयोग किया जा रहा है। इस बिल को लाने का यह बिल्कुल स्पट मतलब निकलता है कि इस देश में संविधान, कानून और सभी से बड़ा व्यक्ति है। यह भी कहा गया है कि दोनों सदनों के 40 से ज्यादा लोग विभिन्न लाभ के पदों पर हैं तो उन 40 लोगों को बचाना आवश्यक है और उन्हें बचाने के लिए संविधान में संशोधन और नया कानून बनाना आवश्यक है ताकि उन लोगों की सदस्यता न जाए। अगर सदस्यता नहीं जाएगी तो मुकदमे नहीं होंगे और उपचुनाव नहीं होंगे। यह अजीब विडम्बना है। मैं इस विाय में दो-तीन बिन्दु आपके सामने रखना चाहता हूं। अगर सदन का इसी ढंग से व्यक्ति के लिए उपयोग होता रहा तो हम नहीं समझते कि जो इतना समय बहस में लगाया जा रहा है, इसका कोई मतलब निकलने वाला है। इस बिल का जो प्रारूप बनाया गया है, उसमें धीरे-धीरे इन पदों की संख्या बढ़ती चली जा रही है। पहले उन्होंने 40-42 पदों के नाम दिए थे और अब यह संख्या बढ़कर 55-56 हो गयी है। हमने भी दो-चार नाम लिखकर दिए थे, उनको भी इसमें शामिल कर लिया गया है। मुझे लगता है कि कुछ गलती हो गयी, अगर दो-चार अन्य पदों के नाम लिखकर देते तो उनको भी इसमें शामिल कर लिया जाता। इस समय सरकार एकदम उदार बनी हुई है, इस उदारता का कारण है एक व्यक्ति, उसे बचाना है और फिर उसी पद पर आसीन कराना है। इसीलिए उदारता का परिचय दिया जा रहा है।

सभापति जी, जब आप अपने स्थान से बोल रहे थे तो हमने आपसे कहा था कि आपने छक्का मार दिया है, आज आपका कोई जवाब नहीं है। आपने बिल के पक्ष में भाण दिया। आपने जो बातें कही हैं, मैं उनको दोहराना नहीं चाहता हूं, मैं उससे सहमति व्यक्त करता हूँ। लेकिन आपने जो कुछ कहा वह इसका एक पक्ष है। मैं इसका दूसरा पक्ष आपके सामने रखना चाहता हूँ। जब मेनका जी बोल रही थीं, उन्होंने कहा कि सांसद का पद एक बहुत बड़ा पद है, उससे जुड़े हुए बहुत से काम हैं। इसलिए लोगों को दूसरे पदों पर नहीं जाना चाहिए। हम यह जानते हैं कि जब संसद का सत्र चलता है तो उसमें भी सीमित संख्या में ही सदस्य हिस्सा लेते हैं। मैं किसी पर टीका-टिप्पणी नहीं कर रहा हूँ लेकिन यदि अभी भी आप सेन्ट्रल हाल में चलकर देख लें तो वहां भी कुछ सदस्यों की उपस्थिति मिल जाएगी जो टीवी के सामने बैठे होंगे। अगर संसद का सत्र खत्म हो जाता है तो जिस तरह गांव में बेरोजगार मजदूर होते हैं, उसी तरह से इस सदन के सदस्य भी बेरोजगार हो जाते हैं। अगर वे यहां पर पैरवी करना, लोगों से मिलना-जुलना बन्द कर दें और कोई कार्यक्रम लगाकर भाण देना बंद कर दें तो मुझे लगता है कि उनको लकवा मार जाएगा। उनके जिम्मे कोई काम नहीं रहता है। ऐसी स्थिति में मैं दो बिन्दु आपके सामने रखना चाहता हूँ कि लाभ का पद बना रहे या न बना रहे, इसके

सम्बन्ध में एक तरह की बात सामने आनी चाहिए। कॉलेज के प्रोफेसर अगर लोकसभा या विधानसभा का चुनाव लड़ते हैं, वहां का वेतन नहीं लेते हैं और संसद या विधानसभा में रहते हैं तो उनका पद लाभ का पद नहीं माना जाता है क्योंकि वे कॉलेज से आए हैं, महाविद्यालय से आए हैं । निजी तौर पर आप देखें तो बहुत से डाक्टर्स अगर सांसद बन जाते हैं तो भी प्राइवेट प्रैक्टिस करते हैं और माल गिनती करते हैं। माननीय भारद्वाज जी अगर कानून मंत्री नहीं होते और सिर्फ राज्य सभा में रहते तो सुप्रीम-कोर्ट में जाकर बहस करके माल बना सकते हैं। इसी सदन के बहुत से सदस्यों की निजी कंपनियों में हिस्सेदारी है, उन पर इसलिए यह कानून लागू नहीं हो सकता क्योंकि इस सरकार ने उनको मनोनीत नहीं किया है। इसी सदन के बहुत से सदस्य ठेकेदारी कराते हैं उन पर यह कानून लागू नहीं हो सकता है क्योंकि सरकार ने उनको ठेकेदार मनोनीत नहीं किया है। अगर आप सदस्यों को लाभ के पद से वंचित करना चाहते हैं तो सरकार को एक कानून बनाना चाहिए कि कोई भी सदस्य जब तक इस पद पर बना रहेगा, तब तक प्राइवेट या सरकारी कोई भी काम नहीं कर सकता है, वकील सुप्रीम कोर्ट में बहस नहीं कर सकता है, डाक्टर प्राइवेट प्रैक्टिस नहीं कर सकता है और कोई सांसद ठेकेदारी नहीं कर सकता है, तब हम मानेंगे कि आप कानून बनाना चाहते हैं और सांसदों को एक सूत्र में बांधना चाहते हैं। अगर आप यह नहीं कर सकते हैं तो एक-दो-तीन से छप्पन तक गिनने की जरुरत नहीं है।

हमने माननीय मंत्री जी को पत्र लिखकर सुझाव दिया था कि आप तीन लाइनों का बिल लाइये। "संसद (निरहर्ता निवारण)संशोधन विधेयक, 2006 की धारा तीन के क्रमांक-दो के पश्चात जोड़ा जाए कि "वैसा कोई भी पद जिस पर कोई संसद सदस्य/जनप्रतिनिधि, अध्यक्ष, उपाध्यक्ष, सचिव अथवा निर्देशक मंडल का सदस्य के रूप में पद धारण करता है और कोई वेतन भत्ता आदि नहीं लेता है, लाभ का पद नहीं माना जाएगा और यह 4 अप्रैल 1959 से अंतःस्थापित समझा जाएगा" ।

आप दो भागों में इसे मत बांटिये। अगर आप किसी व्यक्ति-विशेा के लिए कोई बिल बनाएंगे तो उसका कोई समर्थन नहीं करेगा और उसे आपकी नीयत का पता चल जाएगा। यह तो शब्दों का खेल आप खेल रहे हैं। आप शब्दों के द्वारा कह दीजिये कि फलांना वंचित हो गया, फलांना वंचित नहीं हुआ। आप शब्दों का खेल मत खेलिये। अगर आप किसी को लाभ के पद से वंचित रखना आवश्यक समझते हैं तो हर पद को वंचित कर दीजिए। अगर कोई व्यक्ति वेतन नहीं लेता है तो लाभ के पद से वंचित समझा जाएगा। अगर लाभ के पद पर किसी को रखना चाहते हैं तो चाहे कोई माननीय सदस्या उस पद पर बैठने वाली हों या बैठी थीं, उनकी सदस्यता इससे जाती है तो जाए। आप चुनाव की तैयारी करवाइये। अगर दो तरह की नीति बनाकर आप चाहेंगे कि सदन का प्रयोग किसी व्यक्ति को बचाने के लिए किया जाए तो हम इसके लिए तैयार नहीं हैं।

सभापति जी, आप जिस तरह से पक्ष में बोले थे, मैं आपके एक-एक शब्द से प्रभावित हूं क्योंकि हम महसूस करते हैं कि आप यहां खड़े रहियेगा और जब सरकार की बात आयेगी तो उसी तरह बराबर सरकार के पक्ष में भााण देते रहियेगा। इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूं।

SHRI KHARABELA SWAIN (BALASORE): Sir, I rise to oppose The Parliament (Prevention of Disqualification) Amendment Bill 2006. I am not against any person *per se*; I am against the Bill itself. I am against this West Bengal-centric Bill.

My first point is this. The Present Home Minister of this country, who is the ex-Speaker of Lok Sabha, has time and again on the floor of this House said that all the Bills originating from this House should go to the Standing Committee excepting those Bills which are dealing with grammatical or typographical error. Sir, my point is this. In this Bill, the office which the Speaker of this House is holding in West Bengal is also being brought in. Is it not required that this Bill should be sent to the Standing Committee for discussion? … (*Interruptions*)

Just take an example. Kindly see serial no. 8 in this Bill. The Sriniketan Santiniketan Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979) has been exempted from being an Office of Profit. I am not going to explain anything else. But my appeal is that the Speaker should send this Bill to the Standing Committee for evaluation, for examination because his name is also brought into that. … (*Interruptions*)

SHRI AJOY CHAKRABORTY (BASIRHAT): My colleague has suggested for a Committee. He said that an All-Party Committee should be constituted to examine it. … (*Interruptions*)

SHRI KHARABELA SWAIN : My second point is this. All the time, the hon. Members from the Left have been specifically harping on one point that there is no clear definition of Office of Profit. The hon. Law Minister is an eminent lawyer of this country. Even he accused the Leader of the Opposition, Shri Advani by saying that he does not know the rules. Before some time he mentioned like this. He knows it pretty well … (*Interruptions*)

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): We never mentioned about the Speaker but you are committing another unreasonable precedent in the House by commenting on the Speaker. Has it ever happened that a Member made a comment on the Speaker? I have never said anything unethical. But this is the first time in my long parliamentary career, a Speaker of the House has been accused by a Member. That is the new thing you are opening. … (*Interruptions*)

श्री जुएल ओराम (सुन्दरगढ़) : हम लोग खुल कर बोलेंगे।…(व्यवधान)

SHRI H.R. BHARDWAJ: This is what I said about your leader also. … (*Interruptions*)

SHRI KHARABELA SWAIN : Sir, I am not accusing the hon. Speaker. … (*Interruptions*)

सभापति महोदय :आप अपनी बात कहते रहिए।

SHRI KHARABELA SWAIN : Sir, I am not accusing the Speaker. My only point is that the Government itself have mentioned the name of an institution and they say that it should be exempted. What does it mean? That means, in all probability it is in the Office of Profit. The Government itself have brought this and the Opposition has not brought this.… (*Interruptions*)

सभापति महोदय : आप आगे बोलिए, अपनी बात कहिए।

SHRI KHARABELA SWAIN : Secondly, all the time the hon. Members from the Left, specifically Shri Basu Deb Acharia and Shri Sudhakar Reddy mentioned that there is no clear definition of Office of Profit. The hon. Law Minister knows it pretty well that there is no law anywhere in the world which is inflexible, which has been made once and it has remained so. All the time, the law and the rules are an evolutionary process. It is an evolutionary process through conventions, through judicial pronouncements, and it keeps on changing. So, the founding fathers of our Constitution could not have foreseen about 58 years ago that they would make such a law which would continue and which would be sustainable for all time to come. It would not have been possible. That is why, they constituted a Committee called 'Joint Committee on Office of Profit'. I was a member of that Committee in the 13th Lok Sabha for four years.

Mr. Chairman, Sir, when you spoke from here, you mentioned that in April 1954, this Committee under the chairmanship of Pandit Thakurdas Bhargava was constituted.

What was the necessity of that Committee? What was the purpose of that Committee? The purpose of that Committee was that they would define which post constitutes office of profit and which post does not constitute office of profit. That was the purpose.

I will bring another very important point here. This very Committee on Office of Profit decided on 15th July 1988 that all the Ministries of the Government of India and the State Governments might be asked to obtain prior approval of the Speaker of the Lok Sabha or the Chairman of Rajya Sabha, as the case may be, before nominating any MP to any Government or Committee or body unless the Act under which such Committee or body has been set up provides for appointment of an MP from incurring disqualification by the provisions of the relevant Act itself.

As you know pretty well, because you are a very senior Member, that whenever we are made a Director, a Member, a Chairman of any Committee in the State Government, these are being referred to the Committee on Office of Profit which clears whether it constitutes an office of profit or not.

My point is about these 40 people about whom it has been mentioned in the Statement of Objects and Reasons. The Government is considering this because their membership will go. Here my question to the hon. Law Minister is this. Why did those people not refer their case to the Office of Profit Committee? Do you mean to say that they will say that they did not know the rule? Is ignorance of law an excuse? They could have referred to it and the Joint Committee on Office and asked whether it constitutes an office of profit . They did not do that and I charge that they did it deliberately. They knew that if they refer it to the Committee, the Committee would say no, this is an office of profit and you cannot hold it.

We are being elected as MLAs and MPs. My point is this. Is it not sufficient? What more do you want? How many people in this country have the good fortune of coming and sitting in this House? Is it not sufficient? Still, you require Ministership. If not Ministership, then you require Chairman of any Board. If not, then something else is required. Is it not so? … (*Interruptions*)

Sir, please give me two or three minutes' more time.

This Bill is against all the canons of morality. It is against all the canons of morality and it is against the Constitution itself. It is against ethics and everything. I will tell the hon. Members of the Left that when they were accusing the BJP at the time of disqualifying those Members who took bribe for asking questions, it is the leader of the Leftist Party, the CPM, who was accusing that it is the BJP which is having the most number of Members who are getting disqualified. I am asking them this question. Let them ask themselves what sort of backdoor business they are making. What sort of backdoor business are they making just to protect their own interests? … (*Interruptions*) This is only the question of getting the plum posts. Just to have those plum posts, the so-called Leftists, who say that they are the greatest moralists in the world, and who are having 17 such Members here, are doing this.

My last point is that let this case be referred to the Election Commission. If they say that all these posts actually constitute office of profit then and these Members should be disqualified, let them go to the people. Let them face the by-election, because in a democracy there is nothing better than facing the election. The hon. Leader of the Congress Party, by her great renunciation, showed the way. … (*Interruptions*) They are supporting the Congress Party. They should follow the principle adopted by great Shrimati Sonia Gandhi who also won the by-election. They can also do the same thing. Let them do that. … (*Interruptions*) It is equally applicable to them not only to you. … (*Interruptions*)

So, Sir, my appeal to you is that either this Bill should be sent to the Standing Committee for examination or else all these Members should resign. They should go to the people and face the election.

Sir, with these few words, I conclude.

MR. CHAIRMAN : Shri K.S. Rao. Please conclude within five minutes.

… (*Interruptions*)

SHRI K.S. RAO (ELURU): Yes Sir. But, first of all, please bring the House into order. … (*Interruptions*)

I rise to support the Bill. I heard the objections raised for introduction of the Bill by the hon. Leader of the Opposition, Shri L.K. Advani. I was also present on the day when the House was adjourned *sine die*. The ferociousness and the speed with which the Opposition Leader had come that day and told the entire House that `the ruling UPA Government is trying to adjourn the House *sine die* with a view to protect the membership of Shrimati Sonia Gandhi, our leader' was visible then. That is visible. He directly expressed. He also expressed that he heard that there was a rumour going on that the Government was trying to bring an ordinance to protect her. So, the entire concentration of the Leader of the Opposition and the Members of the Opposition at that time, as I found, was only on her that she should lose her seat. The very next day, when she resigned her membership, the entire thing had cooled down. … (*Interruptions*) We kept quiet very silent. … (*Interruptions*) I was very silent when you spoke. … (*Interruptions*)

If that was the view, if it were to be to protect her own membership, she should not have resigned. Obviously, it was with an intention that this is going to be a crisis, that more number of Members of Parliament are going to lose their seats on this issue, maybe that the Government has thought to bring some amendment or to allow a legislation or ordinance.

Sir, when Shri Jaswant Singh, the Leader of the Opposition in the Rajya Sabha, was asked to give the opinion of the BJP, he did not give any clear idea. He did not say that `we are opposed to it or we are in favour of it'. That means, they are neither this way nor that way. Obviously, as one of our hon. Members was telling, their entire concentration was only on Shrimati Sonia Gandhi because they feel that she has become a great leader or a block for them to come into power. If she were not to be a Member here or a Leader of this Party, then they have got a hope that they can come back to power one day or the other. I would have been very happy had they discussed about the issues of the poor, farmers, drinking water, education or healthcare to the poor who are below the poverty line or elimination of poverty etc.

At any time we see, the concentration was only on her and not on these issues. I heard respectable Member, Shrimati Maneka Gandhi speaking on this very eloquently in a very good language. She was telling that when she was Chairperson of the Animal Welfare Board, some of the pharmaceutical companies were doing wrong things in the laboratories. When she was highlighting all these things, she said, they brought pressure to see that she is out of the post of Chairperson of the Animal Welfare Board. When the then Minister of Environment, Shri T.R. Baalu felt that the office that she was holding was an office of profit, which she cannot hold both as Member of this House as well as that office, she preferred to resign the post of Chairperson of the Animal Welfare Board and not the membership of Parliament. That means she was ready to sacrifice the interests of the animals which is detrimental at the instance of the pharmaceutical companies. This is very clear. This is one.

Secondly, even at that time, this rule of office of profit was there on which she would have been disqualified at that time. Because the NDA Government was there, she could be saved and nobody spoke about it. She also says very categorically – "Sir, it was decided to remove me; but how to do that without incurring my wrath as a member of the NDA". It was not following the legislation. It was not following the ethics or norms. It

was the power at which you are and so she says – "I cannot be removed like this because I am a Member of the NDA". So, Shri T.R. Baalu, who was then the Minister of Environment notified that that post was an office of profit after 42 years of its existence. Shrimati Maneka Gandhi was telling this now, today.

It may be because she thinks that she wants to take against Shrimati Sonia Gandhi or she is very much interested to see that Shrimati Sonia Gandhi should lose the seat, today she says about the ethics, about the office of profit and why should there be a legislation and all that. Did she say so at that time when she was holding two posts? Here is Shrimati Sonia Gandhi who resigned the membership. Shrimati Maneka Gandhi did not resign the membership of this House. She resigned, on the contrary, from the other post.

As you were telling, Sir, when you were speaking from here, even in the case of Shrimati Jaya Bachchan, we never think that Shrimati Jaya Bachchan was holding the second post to earn money or to make benefit out of it. But because, under the legislation, as somebody has complained, the concerned organisation has given a verdict that she should leave the membership. But, none of us were interested. None of us can say that she was holding that post for making money out of it or out of any personal interest. Having realised, because of the incident, the attention of the entire country was caught that so many people are there in a similar situation. When it was spreading to so many people, it is the duty of this House to bring a legislation. We cannot leave it like that.

No legislation, when it was made initially, was foolproof. There may be hundred mistakes in them. As time passes, as conditions change we amend those things. Shri K. Yerrannaidu was telling that it was amended five times. Why should anybody oppose this Bill? Is it detrimental or is it against the dignity of the House? If it were to be against the dignity of the House, how was it made in 1959? In 1959 this Act was made when eminent people were there. When it was not opposed at that time why should it be opposed now? Why should the Members think that it is against the dignity of the House?

I can understand it. Many of the Members can propose many other posts, offices of profit which can be included in it under exemption. But it cannot be that simply because today Shrimati Sonia Gandhi was there in their mind that they can abuse or they can say it or attribute motives or make allegations and everything on this Bill.

Shrimati Maneka Gandhi was also telling and I want to quote. Now hon. Member Shrimati Maneka Gandhi says that "If you were to be a Member of Parliament, you have got full work here. So, there is no need to hold a second assignment." Then, why did she hold the assignment of the Chairman of the Animal Welfare Board? I do not attribute motives on her. She must have had an interest in the animal welfare and because she has got not only interest but she has got the capacity, she was holding that assignment.

There is nothing to find fault with it. Similarly, many of the Members might be experts in some areas, apart from being a Member. So, they are holding other posts also. I do not think that there is anything wrong in it. They should hold other offices with a fair intention that they should not make money by that position. So, we have brought this legislation. If a Member wanted to make profit, certainly there are other ways to condemn him. When some Members had taken money and it was proved beyond doubt, the other day this House had taken action and condemned their actions. In a similar way, if some Member was misusing the second position, you may condemn him.

It is very surprising that hon. Member has said "Does the Government wish to give an additional public image to those of their MPs who could not be accommodated in the Ministries but need a car and office?" Will the Members be preferring to hold second office simply for the sake of car, office or house? She attributes motive that Shrimati Sonia Gandhi was holding the office of National Advisory Council for the sake of office, for the sake of a car. These things are so petty. The nation can judge what amount of difference is there between her and Shrimati

Sonia Gandhi. She has never said anything about Shrimati Maneka Gandhi. Whatever applies to Shrimati Sonia Gandhi must be applied to me and to her also. She forgets all those things. Criticising others is easy, but when it comes to us, then it is known to everybody.

It is true that this Bill may not be comprehensive and may not be totally foolproof. Tomorrow, we may find some more assignments to be exempted. So, we can find a way where all such things will not be there. So, I wish the hon. Minister to go ahead with Bill and get this Bill passed. If any of the Member were to have any genuine areas which are also to be exempted, they can be included. We have already seen an amendment brought by the hon. Minister. Some more offices can be added. Otherwise, today we can pass the Bill and later, we can come with amendments. It is not a crime to bring amendments to an Act.

With a fair mind, if any Member were to think in this manner, not targeting any particular individual, it can be done. This House is not to settle individual scores and personal enmity. So, it is with the intention that the nation should be protected, this House should be protected that this Bill has been brought. If so many Members lose their seats, what is the amount that would have to be spent for holding elections? For ten days, she has been telling that the House was convened now only because of this. This House should have been convened otherwise also. It was there earlier also. This is not a new proposition except that the House was adjourned *sine die* instead of getting adjourned.

With these few words, I request the hon. Members sitting in the House to think with a broader mind and not to make politics as a target or individual as a target and exploit the opportunity.

MR. DEPUTY-SPEAKER: Now Shri Varkala Radhakrishnan will speak. Please conclude your speech in five minutes.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, our Law Minister is a very efficient and experienced person, but I regret to say that this UPA Government is not having a priority in the matter of legislative business. Now, it is evident from the way in which this Bill has been brought. I recall that as early as March 17, 2006, I had made a Special Mention on the floor of this House asking the Government to bring in some amendments to the Office of Profit Act, 1959 because the controversy was not a new thing. The ruling of the Supreme Court also created such a situation. So, in the Special Mention, I had categorically stated that since there was a controversy regarding the term 'Office of Profit', it was better and safe for the Government to bring in a legislation immediately. It is available there in the records.

I also mentioned that the matter has become evident after the disqualification of Shrimati Jaya Bachchan. I brought it out immediately after this happened. But there was no response from the Government. Nobody was responding. If you had responded to it, then this situation could have been prevented.

What is the situation now? I will tell you about it. I am reading from the Statement of Objects and Reasons attached to the Bill. It is stated that :

"… If this state of affairs is allowed to continue … "

We all will remember that the House was adjourned *sine die* under mysterious circumstances. I am saying this because it was already decided that we would meet again for a second time, and even the business to be transacted was designed. But all of a sudden the Government asked for adjournment *sine die*, and we adjourned *sine die*. The Government was under the impression of bringing in an Ordinance, and I believe that for this purpose

the House was adjourned. But Shrimati Sonia Gandhi resigned immediately after adjournment of the House *sine die*. Therefore, the necessity of issuing an Ordinance did not arise. This is the position with regard to this issue.

In the Statement of Objects and Reasons, it is stated that there are about 40 Members in both the Houses of Parliament who are likely to lose their seats. It is further stated here that :

> "… likely vacation of seats in both the Houses of Parliament, which will necessitate the holding of bye-elections to fill up the resultant vacancies…"

It means that the bye-elections would be a wasteful expenditure, and to prevent the wasteful expenditure this is being done. It is stated that :

> "…This will be a wasteful expenditure and will enforce unnecessary financial burden upon the nation…"

It would mean that the Government is admitting that Shrimati Sonia Gandhi's resignation, and the resultant bye-election is also a wasteful expenditure. If you had acted properly, then Shrimati Sonia Gandhi's resignation could have been prevented. But she resigned from Lok Sabha. Therefore, according to the Objects and Reasons, it is crystal clear that Shrimati Sonia Gandhi's bye-election is a wasteful expenditure. It is written there, and it is not in my own words. It is written in the Statement of Objects and Reasons that Shrimati Sonia Gandhi's bye-election is a wasteful expenditure. I am saying this because bye-election for 40 people is a wasteful expenditure, and Shrimati Sonia Gandhi is included among them and her bye-election is also a wasteful expenditure. This is made crystal clear from the Statement of Objects and Reasons. This is how we are doing things.

What has happened because of this Bill? We do not have a proper discussion on this Bill. I am saying this because discussion includes discussion in the Standing Committee. When a Bill is under legislative scrutiny there will be elaborate discussions in the Standing Committees, and there will be limited time available for a short discussion on the floor of the House itself. Clause by Clause consideration, and a detailed discussion will only take place in the Standing Committees, and that process is prevented in this case.

We have two bitter experiences in this Session. Firstly, we all are quite aware about demolitions in Delhi. It is a process going on for long. But the Government became vigilant immediately after political pressure came for it, and they brought a Bill. They brought a Bill and got it passed on the same day. The introduction of the Bill was on the same day; Clause by Clause consideration was on the same day; and final passing of the Bill was also on the same day. It is quite unprecedented, and not a healthy parliamentary practice.

In this case also the same practice is being repeated. I am saying this because we are not getting an opportunity to discuss it in the Committee. Is this the way Parliamentary practices are followed? Is this the way you are holding the Session?

Not only that, there were five Assembly elections. For that purpose, what did the Government do? All the Demands for Grants were guillotined and finally passed preventing legislative scrutiny by the respective Standing Committees. It could have been prevented, if the Government was conscious enough, by bringing a Vote-on-Account. That has not happened.

MR. CHAIRMAN : Now, you have to conclude your speech.

SHRI VARKALA RADHAKRISHNAN : Now, I come to the Bill.

MR. CHAIRMAN: Now, you have to conclude your speech.

SHRI VARKALA RADHAKRISHNAN : I now come to the Bill. The Bill, I must say, is patently defective. I am in a dilemma whether to support the Bill or not, knowing it to be practically difficult. You see, there is a list here. There are many States where the same Corporation exists, but it has been left out. It is patently discriminatory.

It is a concurrent subject. When you accept some office or a particular society, all people must be exempted. I think, in some States, particularly in West Bengal, almost all have been accepted, but very few in other States. That is not correct, and it is highly discriminatory. The Bill will not stand to scrutiny. The proper course would have been to give the powers of delegation to State Assemblies, to State MLAs, so that the States could do it. That is being done today. Why should you give a list?

The Parliament will have to consider the disqualification question of accepting office of profit by this House, but the Legislative Assemblies should decide what should be the office of profit in their respective States. Instead of doing that, you have enumerated a list of offices, mostly in West Bengal, and a few in some other States. This is highly discriminatory.

Not only that, I have the Bill with me. Nowhere the 'office of profit' has been defined. It must be defined. So, I suggest that a special committee should be appointed giving representation to all the political parties, and that committee should go into the details and make a clear definition regarding office of profit. That is the only way we can do that.

Not only that, retrospective effect is being given from 4th July, 1959, after a gap of 46 years. Subsequently, so many legislations have taken place, but nowhere it has given retrospective effect. The retrospective effect that is being given is unheard of, which looks very awkward and unfair.

On these conditions, I would request the Government to ponder over bringing a new law to make the situation more clear and definite.

In parliamentary democracy, for maintaining parliamentary practice and parliamentary integrity, ultimately, I support the Bill.

SHRI BIKRAM KESHARI DEO (KALAHANDI): Sir, at the outset, I oppose the Bill. The reason for my opposing this Bill is that in the earlier part of the day, my leader, Shri Lal Krishna Advani, mentioned that he had no objection regarding other parts of the Bill, but he was only concerned with clause 2 of the Parliament (Prevention of Disqualification) Amendment Bill, 2006. The reason is the extra constitutional authority that has been created. This type of legislation requires a constitutional amendment with two-thirds of the House voting for it and getting a change in the Constitution. This thing has been taken very lightly. This Bill shows and proves that the ruling party is acting to protect some people from the ambit of office of profit and to keep their positions intact. This clearly warranted a Constitutional Amendment. It would have been appropriate if a Constitutional Amendment had been made.

Hon. Member Kishore Chandra Deo, who spoke first in this debate, said that the post of Chairperson of the National Advisory Council was that of a facilitator for the ruling coalition. 'Facilitator' in other words means

'fixer'. The ruling coalition needed a fixer because the constituent parties do not have commonality of views on any issue.

CPI(M) has won the recent election in West Bengal. The Chief Minister goes and tells people that they are anti-reform and anti-globalistation. He has gone on record saying that because of reforms the people of Bengal have voted for them. I do not know how they would digest this. Eventually, the Left also has taken to the path of globalisation.

The post of Chairperson of the National Advisory Council constituted by the Government was just meant to protect a person. In the Statement of Objects and Reasons of this Bill it has been stated that unwanted expenditure would have taken place if re-elections were held. I am quite astonished to see this. If the Government wanted its party leader Shrimati Sonia Gandhi to head the UPA, it could have given her the status of a Minister Without Portfolio.

As per our Constitution, a Member of either Rajya Sabha or Lok Sabha only can become a Minister. Why do they not adopt the American way? In America, they invite experts to head various Ministries. For example, the Secretary of State for Defence, Secretary of State for Transport, etc. What pattern is the Government of India trying to follow? Is it trying to ape the Americans? What qualification has the Chairperson of the National Advisory Council got to occupy that post?

सभापति महोदय : आपका समय समाप्त हो चुका है।

SHRI BIKRAM KESHARI DEO : Mr. Chairman, I oppose Clause 2 of this Bill while I support the rest of the Bill. I have given an amendment.

सभापति महोदय : एमेन्डमेन्ट बाद में आते रहेंगे।

SHRI BIKRAM KESHARI DEO : Thank you.

SHRIMATI JAYAPRADA (RAMPUR): Sir, I have given notice to speak on this Bill.

सभापति महोदय : समय समाप्त हो चुका है। अब मंत्री महोदय जवाब देंगे।

SHRI H.R. BHARDWAJ : Sir, I am very grateful to all the hon. Members who have spoken on this Bill. … (*Interruptions*)

SHRIMATI JAYAPRADA : Sir, I have given notice.

सभापति महोदय : समय समाप्त हो चुका है।

… (*Interruptions*)

SHRI VIJAYENDRA PAL SINGH : Sir, the Session has been called only to pass this Bill. Why only two hours for this? We want to raise important issues. … (*Interruptions*)

सभापति महोदय : अब नहीं हो सकता है। आपकी पार्टी के माननीय सदस्य एलोटिड समय से अधिक बोल चुके हैं। मंत्री जी आप अपना भाण जारी रखिए।

…(व्यवधान)

SHRI H.R. BHARDWAJ: Some hon. Members have said that there should have been a comprehensive review of this Bill. … (*Interruptions*)

श्री विजयेन्द्र पाल सिंह : महोदय, इसी बिल के लिए यह सैशन बुलाया गया है और हमें ही इस पर बोलने नहीं दिया जा रहा है। हम इस बिल पर बोलना चाहते हैं तथा इसके लिए दो घण्टे और बैठ सकते हैं।...(व्यवधान)

सभापति महोदय : केवल मंत्री जी का ही भाण रिकार्ड में जाएगा और कुछ भी रिकार्ड में नहीं जाएगा।

...(व्यवधान) *

सभापति महोदय : आपकी कोई बात रिकार्ड में नहीं जा रही है।

...(व्यवधान) *

SHRI H.R. BHARDWAJ: What is required is to go into the Bill itself. It is a very limited measure to prevent from disqualification certain Members of Parliament whose occupying some offices is likely to disqualify them … (*Interruptions*)

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* Not Recorded.

सभापति महोदय : आपका समय समाप्त हो गया है।

...(व्यवधान)

SHRI H.R. BHARDWAJ : Artcile 102 of the Constitution provides that a person shall be disqualified from being chosen as, and for being, a Member of either House of Parliament and if he holds any office of profit under the Government of India. … (*Interruptions*)

सभापति महोदय : आपकी पार्टी का समय जितना एलाट था, उससे अधिक बोल चुके हैं।

...(व्यवधान)

SHRI H.R. BHARDWAJ: I cannot hear what you are saying. … (*Interruptions*)

सभापति महोदय : अब आपको और समय नहीं दिया जा सकता है।

...(व्यवधान)

सभापति महोदय : मंत्री जी आप अपनी बात कहिए। उनकी बात रिकार्ड में नहीं जा रही है।

...(व्यवधान)

सभापति महोदय : आपका समय हो गया। मंत्री जी आप बोलिए, केवल आपकी बात रिकार्ड हो रही है।

...(व्यवधान)

सभापति महोदय : आप बैठ जाइए।

...(व्यवधान)

SHRI H.R. BHARDWAJ: I do not think this is the proper way to debate. I only want to say a few things for the benefit of the House.

Firstly, the Leader of the House, Shri Advani raised some points. When I replied, he was not in the House. He is a very senior Member. I thought that when he raised an objection about the introduction of the Bill, he would make a constitutional point and a parliamentary point. Only when Parliament lacks competence, then we can say that this cannot be introduced. But unfortunately they raised extraneous matters. Even now, the mood on this side seems to be that let there be no political debate in the House. This is not the way things can be discussed. Even the Leader of the Opposition will realise that when a Leader of the Opposition is appointed under the Statute, he or she has to be exempted under this law. All the Chief Whips who are appointed, they are also to be exempted under this law. In the case of post of Chairmen of various Commissions, namely National Commission on Scheduled Castes, National Commission on Minority, if a Member of Parliament holds the office of Chairman, they are also exempted under this very law.

Now, with your permission, I would give the constitutional background of Article 102. The World over, even in the United Kingdom - it was referred - they do not have a written Constitution. So, there, it is a convention. Whenever Parliament wants to bar an office of profit, they, by Resolution of Parliament add it as a disqualification. … (*Interruptions*) You please listen. Have some etiquette in the House. It is no debate. We can discuss these matters.

What they do is, they go on adding offices which disqualifies a Member. This is one way of doing this. The Leader of the Opposition knows that after the Forty-Second Amendment in Mrs. Gandhi's time, this method was adopted and pursuant to the long research made in this by eminent Parliamentarians, they could say that, let us accept the British system in which there is no list of such disqualifications. They only disqualify by Resolution of Parliament. But in Morarji *Bhai's* Government, this was reversed by the Forty-Fourth Amendment, and they said, no.

I have heard some statements from the Leader of the Opposition. I hold him in very high esteem. We thought that, let us not tinker with the constitutional spirit. He himself perhaps wanted it that we should not tinker with it, and let us continue with the present dispensation. Many eminent legal luminaries, Attorney Generals and very important people have gone into this issue. They also have given this opinion that it is not possible to define Office of Profit. Having regard to the status of Legislature, Executive, it is not possible to lay down or precise definition of what could be an office of profit. The Supreme Court also in several decisions have given conflicting opinions. The latest one is Jaya Bacchan's case, which is altogether a different approach.

17.00 hrs.

So, I have to cater to the desires of the House, and I think, if the House feels sincerely that you want to amend article 102 of the Constitution, that can be very well done with the consensus of the House. It is your House; it is your power; and you can do that.

SHRI BRAJA KISHORE TRIPATHY (PURI): Withdraw it… (*Interruptions*)

SHRI H.R. BHARDWAJ: I do not like these kinds of interruptions when we talk well. This is where you should follow the parliamentary practice.

Sir, if the House is serious and there is a unanimity of views, we can definitely revert to a better system. But today, after the research made by senior parliamentarians like Thakurdas Bhargava and others, this was thought to be a better way in which we are going ahead.

Sir, this is a very small Bill. There are only five sections which have been dealth with in this Bill. Section 3 is the most relevant Section, which says that whenever any Member of Parliament or an eminent person is appointed to an office of profit, then he or she has to be exempted under this law. So, that is the point. When Shri Pranab Mukherjee was as the Deputy-Chairman, Planning Commission and he was to enter the Parliament House, I had to bring this Amendment, which nobody objected. Every Chief Whip is exempted; every Leader of the Opposition is exempted; every Chairman of a Commission is exempted. But I am very surprised to say that if our leader, Shrimati Sonia Gandhi is exempted from heading the National Advisory Council, they feel differently! That is where we feel greatly pained.

Let us have respect for each other. If a leader of a very big party is appointed to a position, which is to advise some NGOs, what is wrong in it? There are 15 eminent NGOs working under the National Advisory Council giving a lot of inputs to the legisation, which practice was not invoked till this NAC was appointed. Times have changed. NGOs have a greater role. And, she was not drawing anything more than what a Member of Parliament gets. Somebody referred to her house. She has a house already allotted to her in her name, and she could draw the same salary as a Member of Parliament. There was nothing big she was getting out of it. Therefore, to allege that everything is being done in her interest or for her interest, is travesty of fact and far from truth.

So, with great respect, Sir, I would submit that let us have a little tolerance for each other. I have never seen this kind of an intolerance in Parliament. We may have different views. We go to the polls with different views, and people give their verdict. I think, she rightly did, against the wishes of all of us; she went through her own introspection, and decided; contested and came back to the Lok Sabha. Let us not make an issue out of it.

17.03 hrs. (Mr. Deputy-Speaker *in the Chair*)

Several eminent MPs are doing some public service in their own fields. Some hon. Members are doing such services in West Bengal also. Shanti Niketan is a very prestigious institution and if a Member of Parliament is giving time to serve Shanti Niketan, I think, he is doing service to the country. Why should there be an objection that it should be called an office of profit? Several eminent MPs, during their free time, do and work in their constituencies. Several Development Boards and other institutions are there. This is the approach that we should exempt them. I am sorry and I am greatly pained and I do not hold any partisan attitude. The day it was being thought after Jaya Bachchan' case -- I have known here very well and intimately -- if she had sought any help from us, we would have willingly helped her that she should not be debarred. But it is the Election Commission's litigation which was being fought by her, and when she got disqualified it became a big news. Thereafter, the whole process started seeing as to how many would be affected.

Sir, I would remind this House that there is an endless list which is continuously flowing to me everyday. Every MP is scared now. Therefore, if an exercise has been undertaken, let us take it seriously. Why are you making a fun of it? All MPs should take it seriously and then decide it. I can frankly tell you that we are prepared for any discussion on this issue. But I am greatly pained by the attitude of the Bhartiya Janata Party. I talked to Sushmaji, I talked to Prof. V.K. Malhotra. Advaniji was not available, otherwise I would have talked to him also. It was all to get help from them. I am not doing it for saving me from disqualification. I am doing it for Members of Parliament of different political parties. I hold them all in very high esteem.

Therefore, this is an exercise for public good and the Parliament (Prevention of Disqualification) Act is meant for this purpose. May I read one line from the Constitution? Article 102 itself says:

"All offices of profit can be exempted by the Parliament."

Parliament has this competence and some people doubt whether the Parliament has got the competence or not. This is where this partisan attitude does not do good for parliamentary debates. If this House decides unanimously, we could have the British system in India so that whenever you want to disqualify, you can bring a law or a resolution. It would be very well and this country would accept it. But it is this very Parliament which has said and some of the leaders who are still sitting in the Opposition were party to it that 42nd amendment is not good and that we rule it out by 44th amendment did that system away.

Now there is a conflict of decisions in the courts and the Election Commission has interpreted it as the law stands. I am duty bound to bring this law before the House to protect all the Members across the board. It is not that I am doing it for my party. Let me tell you frankly, I will not name, the Members of Parliament's who is who here. But we have tried to cover the entire opposition and all other people. If some hon. Member of BJP suffers, he will suffer because of BJP's own attitude. You cannot blame us tomorrow. It is because you have not helped us. We have been going to your doors. How many leaders you want me to contact? I will again contact them. But this is lack of cooperation, consideration and lack of sincere desire to go into this kind of legislation.

The Constitution permits this Parliament to legislate on this issue and this is a very important matter. A sensation is being created and said that the Government is bringing this and that. Sir, can any Minister bring an Ordinance unless the House is prorogued or at least one House is prorogued? A news was sent to the Press that tomorrow the Ordinance will come and heavens will fall. This is never done. I do not keep anything secret.

श्री अनंत गंगाराम गीते : आपने हाउस को साइन-ए-डाई किसलिए किया था?

SHRI H.R. BHARDWAJ: After adjourning the House *sine die*, you have to prorogue the House. I presume you have at least this knowledge that without prorogation, you cannot have an Ordinance.

MR. DEPUTY-SPEAKER: Do you mean to say that this will also be applicable to Jayaji?

SHRI H.R. BHARDWAJ: Sir, nobody knew that Shrimati Jaya Bachchan's case was going on except her. It was pending with the Election Commission. There was certain election petition also. We have done justice to her also in this case. Whatever I could do to help her out, I have done. I have put her case also. So, there is no personal ill will or animosity or prejudice against anybody. But today I am surprised to see that there is a calculated attempt to stop Parliament from discussing such a serious issue. This is never done. Therefore, this House has the authority and competence to legislate. When this House has the competence to legislate and if we do not legislate, that will be the abdication of duty. Even if one Member of Parliament of either side is disqualified for lack of performance of duty, I will presume myself guilty. Therefore, I brought this Bill. I have been very anxious from day one. I have been phoning leaders after leaders and asking them if there is any hon. Member who needs to be exempted. An exhaustive list is there. In England, there are thousands of such exemptions. If you follow English precedents, they go on adding because whenever they entrust some responsibility to any Member of Parliament, they have to exempt him. Therefore, addition of more officers of profit is not something bad.

One issue was raised that the Members of Parliament should not be doctors and advocates. That view has also been raised and discussed in England before Noland Committee went into this whole thing. The Members of Parliament are not whole time employees. In one very important case, I argued for months and years and finally, I convinced the court that the Members of Parliament are nobody's servants. They are the most independent people.

They are more independent than judges even because they speak openly for public and that is why they enjoy certain amenities and freedom under the Constitution.

Therefore, if you want Members of Parliament should be whole-timers, then you decide about their perks and salaries like as it is done in organisations where such provisions exist. Here, it is only parliamentary functions that are discharged by Members of Parliament. Otherwise, somebody is a farmer; somebody is a teacher; somebody is a doctor and somebody is a businessman and they are discharging their respective functions. I do not think we should bind them down totally. We should give them the freedom. Freedom of Parliament is one of the most important aspects of democracy. Any thought of putting fetters on this will not be appreciated in the larger interest of democracy. Therefore, we should all contribute our mite in building up healthy traditions that when Members of Parliament are asked to discharge certain functions, they should be free to do that and that is not for money. Nobody goes to these Trusts and Societies for money. There are certain prestigious Trusts and we have exempted them all. We have also exempted certain societies. There are certain institutions and corporations. Therefore, we had to bring this law. We had tried to be fair and much more fair than on any other occasion in the past. It is because we are all Members of Parliament. There is no partisan view. Once we are elected as Members of Parliament, we are Members of Parliament for the whole country. That is the approach… (*Interruptions*) Let me finish please. You can raise it later. There are many Members who have raised certain issues. I would like to address those issues.

Sir, we have exempted, under this law, all trusts whether public or private. So, Members of Parliament should not bother if they are holding any position in any Trust, be it public or private. Similarly, we have exempted all Government bodies and members of Societies registered under Society Act or any other law which is in force at the time being. These are the two major things that have been proposed and a large number of Members of Parliament, who are doing some kind of public service, will benefit from these provisions in this legislation. Some people are running schools. They are registered societies. A lot of work has gone into it. This exemption table is only with regard to statutory and those which needs specifically to be exempted. There is no other way to deal with this problem.

Sir, one issue was raised about dispensing with the rules. These are matters of procedure. The Chair is the final authority and if there is a consensus in the House, I am bound by it. This time was essentially kept because we could not deal with this problem then and now all these saving clauses are meant only with a view to achieving this objective for which this Bill is being brought forward. This is a very fair deal. The Government is bringing forward this Bill only to protect the interest of the hon. Members of this House who otherwise would be disqualified by the Election Commission. If any hon. Member has any suggestion, I have an open mind and we will constitute a Committee to go into those suggestions and the Joint Committee on Offices of Profit can also go into those suggestions. This is a never-ending procedure.

The courts will go on handing out judgements. We are examining the latest one. We have tried to enact this law according to what had been laid down in the Jaya Bacchan case. There were two different views of the Supreme Court earlier. This is the latest one. We have covered the suggestions given by everybody. I am grateful to the hon. Members for their suggestions.

Sir, before I conclude I would like to repeat that we do not have any ill-will against anybody. We have respect for leaders of all Parties, but unfortunately, it is our leader who is always under attack. Do people think that we have no commitment for our leader? If they will do like this, then we will also start doing this. We hold every leader in high esteem. Our leader has demonstrated a positive attitude. She has certain basic principles, ethical principles, moral values which are lacking in the other side.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill further to amend the Parliament (Prevention of Disqualification) Act, 1959, be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: The House may now take up clause by clause consideration of the Bill.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 Insertion of new Table

Amendments made:

Page 3, *for* line 2,-

substitute "13. The State Fisheries Development Corporation Limited, West Bengal.". (6)

Page 3, Line 32,-

for "33. The Bihar State Religious Trust Board.".

substitute "33. The Bihar State Board of Religious Trust, a body constituted under the Bihar Hindu Religious Trust Act, 1950 (Bihar Act No. 1 of 1951).". (7)

Page 3, *after* line 45, *insert*,-

"46. The Dalit Sena, 12, Janpath, New Delhi.

47. The Social Justice Trust, 12, Janpath, New Delhi.

48. The Bahujan Foundation (Charitable Trust), Lucknow, Uttar Pradesh.

49. The Bahujan Prerna Charitable Trust, Delhi.

50. The Central Wakf Council, established under section 9 of the Wakf Act, 1995 (43 of 1995).

51. The Nehru Memorial Museum and Library (NMML).

52. The Jalianwala Bagh Memorial Trust.

53. The Haj Committee of India constituted under section 3 of the Haj Committee Act, 2002 (35 of 2002).

54. The Mallickghat Phoolbazar Parichalan Committee.

55. The West Bengal Fisheries Corporation Limited.". (8)

(Shri H.R. Bhardwaj)

उपाध्यक्ष महोदय : प्रभुनाथ सिंह जी, क्या आप अपना संशोधन मूव करना चाहते हैं?

श्री प्रभुनाथ सिंह (महाराजगंज, बिहार) : मैंने अपनी बात कहते समय भी आग्रह किया था...(व्यवधान) आपके मन के लायक कह रहा हूं, कृपया सुन लें।

उपाध्यक्ष महोदय : आप बोल चुके हैं। अब यह बताएं कि क्या आप अपना संशोधन वापस लेना चाहते हैं या नहीं?

श्री प्रभुनाथ सिंह : मैं वापस नहीं लेना चाहता हूं। हमारी बात सुन लीजिए, एक मिनट में अपनी बात कह देंगे।

उपाध्यक्ष महोदय : अपनी बात सुनाने के बाद क्या आप अपना संशोधन वापस लेंगे? कहिए क्या सुनाना चाहते हैं?

श्री प्रभुनाथ सिंह : उपाध्यक्ष महोदय, मैंने चर्चा में भाग लेते समय मंत्री जी से आग्रह किया था कि संसद (निरर्हता निवारण) संशोधन विधेयक, 2006 की धारा 3 के क्रमांक 2 के पश्चात् जोड़ा जाए कि ऐसा कोई भी पद जिसमें कोई संसद सदस्य, जन प्रतिनिधि, अध्यक्ष, उपाध्यक्ष सचिव अथ वा निदेशक मंडल के रूप में पद धारण करता है और कोई वेतन या भत्ता नहीं लेता है, लाभ का पद नहीं माना जाएगा और यह 4 अप्रैल, 1959 से स्थापित समझा जाएगा। इसमें मंत्री जी से मैं आग्रह करना चाहूंगा कि हमारी बात मान लें। इसमें उन्हें क्या आपत्ति है?

इसलिए मैं प्रस्ताव करता हूं :

पृठ 4,

पंक्ति 14 के पश्चात् निम्नलिखित अंतःस्थापित किया जाए,-

"46 बिहार राज्य सहकारी भूमि विकास बैंक, पटना।
47 बिहार राज्य सहकारी विपणन संघ मर्यादित (बिस्कोमान) पटना।
48 बिहार राज्य सहकारी बैंक, पटना।
49 बिहार राज्य सहकारी संघ, पटना।" (1)

SHRI H.R. BHARDWAJ: Sir, may I give an explanation for this point? He has given a very attractive preposition. But his suggestions cannot be accepted because the scheme of the law is, if you have to exempt each office, and you will have to amend the Constitution if you would like to give blanket exemptions. We cannot do that.

MR. DEPUTY-SPEAKER: I shall now put amendment No. 1 moved by Shri Prabhunath Singh to the vote of the House.

The amendment was put and negatived.

SHRI PRABODH PANDA (MIDNAPORE): I beg to move:

Page 3,-

after line 45, *insert*-

"46. The Midnapore Kharagpur Development Authority, a body constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act No. 13 of 1979)". (2)

MR. DEPUTY-SPEAKER: I shall now put amendment No. 2 moved by Shri Prabodh Panda to the vote of the House.

The amendment was put and negatived

SHRI BASU DEB ACHARIA (BANKURA): I beg to move:

Page 3, line 10,-

for "Powerloom and Handloom"

substitute "Handloom and Powerloom" (4)

SHRI H.R. BHARDWAJ: We accept this amendment.

श्री प्रभुनाथ सिंह : इनका संशोधन तो स्वीकार कर लिया जाएगा और हमारा नहीं करेंगे।

MR. DEPUTY-SPEAKER: I shall now put amendment No. 4 moved by Shri Basudeb Acharia to the vote of the House.

The question is:

Page 3, line 10,-

for "Powerloom and Handloom"

substitute "Handloom and Powerloom" (4)

The motion was adopted.

उपाध्यक्ष महोदय : माननीय रामजीलाल सुमन जी, क्या आप अमेंडमेंट मूव करना चाहते हैं?

श्री रामजीलाल सुमन (फ़िरोज़ाबाद) : उपाध्यक्ष जी, जो संशोधन मैंने प्रस्तुत किया था वह सरकार ने पहले ही मान लिया है।

MR. DEPUTY-SPEAKER: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

SHRI BRAJA KISHORE TRIPATHY (PURI): Sir, I am on a point of order. … (*Interruptions*)

MR. DEPUTY-SPEAKER: What is your point of order? Under what rule?

… (*Interruptions*)

SHRI BRAJA KISHORE TRIPATHY : Sir, my point of order arises from the provisions of rule 371. At the time of introduction of the Bill also I raised this matter. I do not have any intention to offend any hon. Member. But this is a question of law. Rule 371 says that if any hon. Member derives any pecuniary benefit out of the Bill or the law, he should not participate in the proceedings and he cannot participate in voting. How are the hon. Members who are getting benefit out of this legislation sitting here? This is a question of law. … (*Interruptions*) Mr. Deputy-Speaker, Sir, you should ask them to leave this House. I want a clear ruling from you. I am just reading it out. … (*Interruptions*) Please listen to me. … (*Interruptions*)

MR. DEPUTY-SPEAKER: This rule does not apply here.

… (*Interruptions*)

SHRI BRAJA KISHORE TRIPATHY : Article 371 says:

> "If the vote of a Member in a division in the House is challenged on the ground of personal, pecuniary or direct interest in the matter to be decided, the Speaker may, if he considers necessary, call upon the Member making the challenge to state precisely the grounds of his objection and the Member whose vote has been challenged to state his case and shall decide whether the vote of the Member should be disallowed or not and his decision shall be final. "

MR. DEPUTY-SPEAKER: It is applicable only when division is there.

… (*Interruptions*)

SHRI BRAJA KISHORE TRIPATHY : Now, I am challenging their vote. How can the Members who are getting benefit out of this Bill participate in the voting and division? That is my point and I request you to give a ruling. … (*Interruptions*)

MR. DEPUTY-SPEAKER: This is no point of order and this is not applicable.

… (*Interruptions*)

SHRI BRAJA KISHORE TRIPATHY : We cannot be party to their decision to participate in the House. So, we are just leaving the House.

17.23 hrs.

(At this stage, Shri Braja Kishore Tripathy and some other

hon. Members left the House.)

श्री अनंत गंगाराम गीते : उपाध्यक्ष जी, यह सदन की विश्वसनीयता के साथ धोखा है।

MR. DEPUTY-SPEAKER: The question is:

"That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

SHRI H.R. BHARDWAJ: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.